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Rebecca McDowell Cook

Secretary of State

MISSOURI REGISTER

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October 1, 1999 Vol. 24 No. 19 **Pages 2263–2560**

IN THIS ISSUE:

Register Filing Deadlines	Register Publication	Code Publication	Code Effective
July 30, 1999	**Sept. 1, 1999**	Sept. 30, 1999	Oct. 30, 1999
Aug. 13, 1999	**Sept. 15, 1999**	Sept. 30, 1999	Oct. 30, 1999
Sept. 1, 1999	**Oct. 1, 1999**	Oct. 31, 1999	Nov. 30, 1999
Sept. 15, 1999	**Oct. 15, 1999**	Oct. 31, 1999	Nov. 30, 1999
Oct. 1, 1999	**Nov. 1, 1999**	Nov. 30, 1999	Dec. 30, 1999
Oct. 15, 1999	**Nov. 15, 1999**	Nov. 30, 1999	Dec. 30, 1999
Nov. 1, 1999	**Dec. 1, 1999**	Dec. 31, 1999	Jan. 30, 2000
Nov. 15, 1999	**Dec. 15, 1999**	Dec. 31, 1999	Jan. 30, 2000
Dec. 1, 1999	**Jan. 3, 2000**	Jan. 30, 2000	Feb. 29, 2000
Dec. 15, 1999	**Jan. 14, 2000**	Jan. 30, 2000	Feb. 29, 2000
Dec. 31, 1999	**Feb. 1, 2000**	Feb. 29, 2000	March 30, 2000
Jan. 14, 2000	**Feb. 15, 2000**	Feb. 29, 2000	March 30, 2000
Feb. 1, 2000	**March 1, 2000**	March 31, 2000	April 30, 2000
Feb. 15, 2000	**March 15, 2000**	March 31, 2000	April 30, 2000

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Title	CSR	Division	Chapter	Rule
1	*Code of State Regulations*	10-	1.	010
Department		Agency, Division	General area regulated	Specific area regulated

And should be cited in this manner: 1 CSR 10-1.010

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They are properly cited by using the full citation, for example, 1 CSR 10-1.010. NOT Rule 10-1.010.

RSMo

Cite material in the RSMo by date of legislative action. The asterisked note gives the original and amended legislative history. The Office of the Revisor of Statutes recognizes that this practice gives *Code* and *Register* users a concise legislative history.

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PS Form **3526,** September 1998 *(Reverse)*

Rules appearing under this heading are filed under the authority granted by section 536.025, RSMo Supp. 1998. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the *Missouri* and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons and findings which support its conclusion that there is an immediate danger to the public health, safety or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

Rules filed as emergency rules may be effective not less than ten days after filing or at such later date as may be specified in the rule and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the *Missouri Register* as soon as practicable.

All emergency rules must state the period during which they are in effect, and in no case can they be in effect more than 180 calendar days or 30 legislative days, whichever period is longer. Emergency rules are not renewable, although an agency may at any time adopt an identical rule under the normal rulemaking procedures.

Title 2—DEPARTMENT OF AGRICULTURE
Division 10—Market Development
Chapter 5—Price Reporting

EMERGENCY RULE

2 CSR 10-5.005 Price Reporting Requirements for Livestock Purchases by Packers

PURPOSE: This rule specifies the requirements of section 277.200 through section 277.215 RSMo, which may be confusing or subject to differing interpretations by interested members of the public.

EMERGENCY STATEMENT: The director of agriculture has determined that emergency procedures should be implemented to establish rules for mandatory price reporting. Senate Bill 310 requires that meat packers report all prices paid for livestock purchased in the state of Missouri. That law also mandates that packers shall not discriminate in prices paid or offered to be paid to sellers of that livestock, except in certain instances packers may offer differential prices. Section 277.215 RSMo provides the Department of Agriculture shall promulgate rules necessary to implement the act.

Until this law is further defined by the rules process, uncertainty will exist that may allow some packers to interpret this law to the disadvantage of the state's producers. There is, therefore, a compelling governmental interest to clarify the statute to maintain an even flow of livestock to market. Clearly, the packers' interpretation of this new law could pose a threat to public welfare in Missouri. The detrimental economic impact on Missouri citizens could be enormous. The agriculture industry, the largest in the state, derives more than half of all income from livestock sales. Cash receipts from livestock in 1998 totaled $936.7 million. Packers must have the information contained in these rules to comply with the law.

The emergency rulemaking process will allow the Department of Agriculture to fulfill duties required by law while causing little or no disruption to daily commerce for the most economically significant segment of Missouri's economy.

The agency has weighed the compelling governmental interest against the due process rights of the public to notice and comment. In light of a potential threat to the public welfare, there is a compelling governmental interest to enact this rule through emergency rulemaking.

*The scope of this rule is limited to the circumstances which created this emergency and complies with the protections extended in the **Missouri** and **United States Constitutions**. In developing this rule the agency has encouraged discussion with interested parties and provided them the opportunity to offer their comments. The agency believes this emergency rule to be fair to all persons and parties under the circumstances. This emergency rule was filed on September 3, 1999, effective September 13, 1999, and expires March 2, 2000.*

(1) The following definitions shall apply to the interpretations and enforcement of section 277.200 through section 277.215 RSMo:

(A) Discrimination—defined as offering a different price for the same quality of livestock unless such price differential is based on—

1. Transportation and acquiring costs;

2. An agreement for delivery of livestock at a specified date or time; or

3. Historical data reflecting anticipated carcass merit or value so long as said data is made available to the seller along with applicable premiums and discounts;

(B) Missouri resident—defined as any—

1. Individual residing or domiciled in Missouri;

2. Missouri corporation;

3. Foreign corporation registered in Missouri and doing business in Missouri;

4. Missouri LLC;

5. Foreign LLC registered in Missouri and doing business in Missouri; or

6. Partnership doing business in Missouri;

(C) Direct purchases—shall include but shall not be limited to—

1. Cash;

2. Grade and yield;

3. Grid;

4. Formula pricing; or

5. Forward contracts.

(2) The nature of public auction insures that discrimination does not occur. The open bidding process on livestock already delivered to a specific place and occurring at a given time and with the stock present for all to view allows the final and successful bidder to meet the requirements specified in RSMo 277.203. Therefore section 277.200 RSMo through section 277.215 RSMo, shall not apply to a packer or packer's agent who purchases or solicits livestock at a public auction market.

(3) Reporting as required under section 277.200 RSMo through section 277.215 RSMo shall be made to the Department of Agriculture. Forms may be obtained from the Department of Agriculture.

AUTHORITY: section 277.215, RSMo Supp. 1999. Emergency rule filed Sept. 3, 1999, effective Sept. 13, 1999, and expires March 2, 2000.

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 23—Motor Vehicle

EMERGENCY RULE

12 CSR 10-23.446 Notice of Lien

PURPOSE: This rule outlines the requirements for the perfection of a lien on a motor vehicle, trailer, all terrain vehicle, boat or outboard motor and provides for a transition period which permits the current certificate of title and lien perfection procedure to continue.

*EMERGENCY STATEMENT: The emergency rule outlines the requirements for the perfection of a lien on a motor vehicle, trailer, all terrain vehicle, boat or outboard motor and provides for a transition period which permits the current certificate of title and lien perfection procedure to continue. This emergency rule is necessary to preserve a compelling governmental interest in the sale of motor vehicles, trailers, all terrain vehicles, boats or outboard motors and the ability to perfect liens on such entities pursuant to House Bill 795 and Senate Bill 19, passed during the 90th General Assembly. The scope of this rule is limited to the circumstances which created the emergency and complies with the protections extended in the **Missouri** and **United States Constitutions**. In developing this rule the agency conferred with interested parties and provided them the opportunity to offer their comments. The agency believes this emergency rule to be fair to all persons and parties under the circumstances. The emergency rule was filed on Aug. 18, 1999, effective Aug. 28, 1999, expires Feb. 23, 2000.*

(1) A lien on a motor vehicle, trailer, all terrain vehicle, boat or outboard motor is perfected when a notice of lien meeting the requirements in section (2) is delivered to the director of revenue, whether or not the ownership thereof is being transferred. Delivery to the director of revenue may be physical delivery of the notice of lien to the director by mail or to the director or agent of the director in a Department of Revenue office. A received date stamp placed on the notice of lien by the director or his agent will be *prima facie* proof of the date of delivery. No title fee or ownership document is required to be submitted to the director of revenue by the lienholder with a notice of lien, and if the ownership is not being transferred, the lienholder may also submit the application for title, the ownership document and fee on behalf of the owner to have a new title produced reflecting the lien.

(2) A notice of lien for a motor vehicle, trailer, all terrain vehicle, boat or outboard motor may be either a form provided by the director of revenue entitled "Notice of Lien" or the lienholder's copy of the application for title and registration, and in either case containing the following information:

(A) Name and address of owner(s);

(B) Vehicle description, by make, model and vehicle identification number;

(C) Purchase date; and

(D) Name and address of lienholder(s).

(3) As used in this rule, the term "boat" includes all motorboats, vessels or watercraft as the terms are defined in section 306.010, RSMo.

*AUTHORITY: sections 301.600 and 306.400, RSMo Supp. 1999. Emergency rule filed Aug. 18, 1999, effective Aug. 28, 1999, expires Feb. 23, 2000. A proposed rule covering this same material is published in this issue of the **Missouri Register**.*

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Division of Family Services
Chapter 19—Energy Assistance

EMERGENCY AMENDMENT

13 CSR 40-19.020 Low Income Home Energy Assistance Program. The Division of Family Services proposes to amend section (3) to reflect changes made in income levels based on federal poverty guidelines.

PURPOSE: The emergency amendment to this rule is being made to adjust the monthly income amounts on the LIHEAP Income Ranges Chart.

*EMERGENCY STATEMENT: The division finds that there exists an immediate danger to the public welfare which requires emergency action. This emergency amendment follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances, complies with the protections extended by the **Missouri** and **United States Constitutions** and limits the scope of the emergency rule to the circumstances creating the emergency and requiring emergency procedure. An emergency amendment is necessary because of the planned implementation of the program in October, 1999. Postponing the date for acceptance of energy assistance applications will result in individuals having their utility service terminated. Termination of utility service can produce a health hazard, particularly to elderly and disabled individuals, since they are more susceptible to hypothermia.*

The rule is necessary to preserve a compelling governmental interest requiring an early effective date in that the rule informs the public regarding income guidelines for receipt of assistance. The eligibility criteria for energy assistance changes each year based on poverty guidelines announced by the federal government. It is essential for persons potentially eligible for low income home energy assistance to have timely information related to the income guidelines prior to the need for assistance. The procedure employed is fair to all interested parties concerned inasmuch as it equitably allocates energy assistance benefits based on household size and available resources. Emergency amendment filed September 2, 1999, effective October 1, 1999, expires March 28, 2000.

(3) Primary eligibility requirements for this program are as follows:

(D) Each household must have a monthly income no greater than the specific amounts based on household size as set forth in the Low Income Home Energy Assistance Program (LIHEAP) Income Ranges Chart. If the household size and composition of an LIHEAP applicant household can be matched against an active food stamp case reflecting the same household size and composition, monthly income for LIHEAP will be established by using the monthly income documented in the household's food stamp file.

[LIHEAP Income Ranges Chart

Monthly Income Amounts

Household Size	*Income Range*	*Income Range*	*Income Range*	*Income Range*	*Income Range*
1	*$0–168*	*$169–336*	*$337–504*	*$505–672*	*$673–839*
2	*$0–226*	*$227–452*	*$453–678*	*$679–904*	*$905–1130*
3	*$0–262*	*$263–524*	*$525–786*	*$787–1048*	*$1049–1308*
4	*$0–315*	*$316–630*	*$631–945*	*$946–1260*	*$1261–1576*
5	*$0–369*	*$370–738*	*$739–1107*	*$1108–1476*	*$1477–1845*
6	*$0–423*	*$424–846*	*$847–1269*	*$1270–1692*	*$1693–2113*
7	*$0–476*	*$477–952*	*$953–1428*	*$1429–1904*	*$1905–2381*
8	*$0–530*	*$531–1060*	*$1061–1590*	*$1591–2120*	*$2121–2650*
9	*$0–584*	*$585–1168*	*$1169–1752*	*$1753–2336*	*$2337–2918*
10	*$0–637*	*$638–1274*	*$1275–1911*	*$1912–2548*	*$2549–3186*
11	*$0–691*	*$692–1382*	*$1383–2073*	*$2074–2764*	*$2765–3455*
12	*$0–745*	*$746–1490*	*$1491–2235*	*$2236–2980*	*$2981–3723*
13	*$0–798*	*$799–1596*	*$1597–2394*	*$2395–3192*	*$3193–3991*
14	*$0–852*	*$853–1704*	*$1705–2556*	*$2557–3408*	*$3409–4260*
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17	*$0–1013*	*$1014–2026*	*$2027–3039*	*$3040–4052*	*$4053–5065*
18	*$0–1067*	*$1068–2134*	*$2135–3201*	*$3202–4268*	*$4269–5333*
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20	*$0–1174*	*$1175–2348*	*$2349–3522*	*$3523–4697*	*$4698–5870]*

LIHEAP INCOME RANGES CHART

Monthly Income Amounts

Household Size	**Income Range**	**Income Range**	**Income Range**	**Income Range**	**Income Range**
1	**$0–172**	**$173–344**	**$345–516**	**$517–688**	**$689–858**
2	**$0–230**	**$231–460**	**$461–690**	**$691–920**	**$921–1152**
3	**$0–266**	**$267–532**	**$533–798**	**$799–1064**	**$1065–1330**
4	**$0–320**	**$321–640**	**$641–960**	**$961–1280**	**$1281–1600**
5	**$0–374**	**$375–748**	**$749–1122**	**$1123–1496**	**$1497–1871**
6	**$0–428**	**$429–856**	**$857–1284**	**$1285–1712**	**$1713–2141**
7	**$0–482**	**$483–964**	**$965–1446**	**$1447–1928**	**$1929–2411**
8	**$0–536**	**$537–1072**	**$1073–1608**	**$1609–2144**	**$2145–2681**
9	**$0–590**	**$591–1180**	**$1181–1770**	**$1771–2360**	**$2361–2952**
10	**$0–644**	**$645–1288**	**$1289–1932**	**$1933–2576**	**$2577–3222**
11	**$0–698**	**$699–1396**	**$1397–2094**	**$2095–2792**	**$2793–3492**
12	**$0–752**	**$753–1504**	**$1505–2256**	**$2257–3008**	**$3009–3762**
13	**$0–807**	**$808–1614**	**$1615–2421**	**$2422–3228**	**$3229–4033**
14	**$0–861**	**$862–1722**	**$1723–2583**	**$2584–3444**	**$3445–4303**
15	**$0–915**	**$916–1830**	**$1831–2745**	**$2746–3660**	**$3661–4573**
16	**$0–969**	**$970–1938**	**$1939–2907**	**$2908–3876**	**$3877–4843**
17	**$0–1023**	**$1024–2046**	**$2047–3069**	**$3070–4092**	**$4093–5114**
18	**$0–1077**	**$1078–2154**	**$2155–3231**	**$3232–4308**	**$4309–5384**
19	**$0–1131**	**$1132–2262**	**$2263–3393**	**$3394–4524**	**$4525–5654**
20	**$0–1185**	**$1186–2370**	**$2371–3555**	**$3556–4740**	**$4741–5924**

AUTHORITY: section 207.020, RSMo 1994. Emergency rule filed Nov. 26, 1980, effective Dec. 6, 1980, expired March 11, 1981. Original rule filed Nov. 26, 1980, effective March 12, 1981. For intervening history, please consult the ***Code of State Regulations****. Emergency amendment filed Sept. 2, 1999, effective Oct. 1, 1999, expires March 28, 2000. A proposed amendment covering this same material is published in this issue of the* ***Missouri Register****.*

Title 15—ELECTED OFFICIALS
Division 50—Treasurer
Chapter 4—Missouri Higher Education Savings Program

EMERGENCY RULE

15 CSR 50-4.020 Missouri Higher Education Savings Board

PURPOSE: This rule establishes procedures for the operation of the Missouri Higher Education Savings Program (the "savings program"), specifies responsibilities of the Missouri Higher Education Savings Program Board (the "board") in administering and monitoring the savings program, describes the rights and responsibilities of the board and its staff, participants, beneficiaries and any third party designated by the board to carry out services under the savings program, and is intended to ensure that the savings program conforms with the federal and state statutes and regulations governing qualified state tuition programs.

EMERGENCY STATEMENT: The board files this emergency rule because it is necessary to protect the welfare of the citizens of

Missouri and is necessary to preserve a compelling government interest that requires an early effective date for the savings program. The board finds this emergency rule necessary to implement the provisions of sections 166.400 to 166.455, RSMo (the "statute"), which establish the savings program and authorize the board to implement the savings program and promulgate the rules and regulations necessary for the savings program to qualify as a "qualified state tuition program" pursuant to section 529 of the ***Internal Revenue Code*** *of 1986, for tax years commencing January 1, 1999 and thereafter. This rule is proposed as an emergency rule to satisfy the mandate of section 166.435.3, RSMo that the advantages provided by the savings program, including state income tax deductions for contributions to the savings program by participants, be available for tax years commencing January 1, 1999 and thereafter. Without this emergency rule, the savings program will not be in compliance with the* ***Internal Revenue Code*** *of 1986. To be in compliance or to fall within the safe harbors provided by section 529 and the proposed regulations related thereto, the savings program needs to clarify or supplement the statute, including without limitation with respect to the following:*

(a) restrictions on the rights of the participants and beneficiaries to direct investment of savings program funds or to pledge assets in the accounts established under the savings program;

(b) requirements for the savings program to provide a separate accounting for the designated beneficiary for each such account;

(c) restrictions on withdrawals from accounts established under the savings program; and

(d) definition of "beneficiary" to include transferees or recipients of scholarships.

As a result, without this emergency rule, the benefits of the savings program to Missouri citizens would not be available for the tax year beginning January 1, 1999 as required by the Statute. The board finds that compelling governmental interests require adoption of this emergency rule.

This emergency rule is limited to the policies and procedures necessary for the immediate implementation of the saving program. This emergency rule is fair to all interested parties under the circumstances. The scope of this emergency rule is limited to the circumstances creating the emergency, and this emergency rule complies with the protections extended by the ***Missouri*** *and* ***United States Constitutions****. The Missouri Higher Education Savings Program Board will file a proposed rule which may be effective prior to the expiration of this emergency rule. This emergency rule was filed August 30, 1999, will be effective September 14, 1999, and will expire March 12, 2000.*

PUBLISHER'S NOTE: The publication of the full text of the material that the adopting agency has incorporated by reference in this rule would be unduly cumbersome or expensive. Therefore, the full text of that material will be made available to any interested person at both the Office of the Secretary of State and the office of the adopting agency, pursuant to section 536.031.4, RSMo. Such material will be provided at the cost established by state law.

(1) Incorporation by Reference. The provisions of section 529 of the *Internal Revenue Code* and the Treasury regulations (or proposed regulations) promulgated thereunder are incorporated herein by reference with the same effect as if fully set forth herein.

(2) Definitions.

(A) Existing Missouri Definitions. The following terms, as used in this rule, are defined in section 166.410, RSMo: benefits, board, eligible educational institution, *Internal Revenue Code*, participation agreement, qualified higher education expenses, savings program.

(B) Existing Federal Definitions. The following terms, as used in this rule, are defined in section 529 of the *Internal Revenue Code* or the Treasury regulations (or proposed regulations) promulgated thereunder: contribution, distributee, distribution, earnings, investment in the account, member of the family, qualified state tuition program.

(C) Additional Definitions. The following definitions shall also apply to the following terms as they are used in this rule:

1. "501(c)(3) Organization" means an organization described in section 501(c)(3) of the *Internal Revenue Code* and exempt from taxation under section 501(a) of the *Internal Revenue Code*;

2. "Account" means the account in the savings program established by a participant and maintained for a beneficiary;

3. "Account balance" means the fair market value of an account on a particular date;

4. "Account owner" means (a) a participant or (b) the transferee of an account pursuant to subsection (5)(H) below;

5. "Beneficiary" means a "designated beneficiary" as defined in section 529 of the *Internal Revenue Code* and the Treasury regulations (or proposed regulations) promulgated thereunder;

6. "Cash" shall include but not be limited to checks drawn on a banking institution located in the continental United States in U.S. dollars (other than cashiers checks, travelers checks or third-party checks exceeding ten thousand dollars, ($10,000)), money orders, payroll deduction, and electronic funds transfers. Cash does not include property;

7. "Disability" means, with respect to a beneficiary, any disability of such beneficiary that has been certified pursuant to subparagraph (6)(B)2. below;

8. "Member of the family" means an individual who is related to the beneficiary as listed in subparagraphs A. through I. of this definition, together with such changes to such list as may be included, from time to time, in the definition of "member of the family" pursuant to section 529 of the *Internal Revenue Code* or the Treasury regulations (or proposed regulations) thereunder;

A. A son or daughter, or a descendant of either;

B. A stepson or stepdaughter;

C. A brother, sister, stepbrother or stepsister;

D. The father or mother, or an ancestor of either;

E. A stepfather or stepmother;

F. A son or daughter of a brother or sister;

G. A brother or sister of the father or mother;

H. A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law or sister-in-law; or

I. The spouse of the designated beneficiary or the spouse of any individual described in subparagraphs A. through H. of this definition.

For purposes of determining who is a member of the family hereunder, a legally adopted child of an individual shall be treated as the child of such individual by blood, and the terms brother and sister include a brother or sister by the halfblood;

9. "Non-qualified withdrawal" means a distribution from an account other than a qualified withdrawal, a withdrawal due to death, disability or scholarship of beneficiary, a rollover distribution, or a distribution from an account that is made after amounts are held in such account for the minimum length of time, if at all, permitted by section 529 of the *Internal Revenue Code* without the imposition of a penalty;

10. "Participant" means a person who has entered into a participation agreement pursuant to the statute and this rule for the payment of qualified higher education expenses on behalf of a beneficiary;

11. "Person" means any individual, estate, association, trust, partnership, limited liability company, corporation, the state of Missouri or any department thereof, or any political subdivision of the state of Missouri;

12. "Qualified withdrawal" means a distribution from an account established under the savings program used exclusively to pay qualified higher education expenses of the beneficiary;

13. "Rollover distribution" means a distribution or transfer from an account for a beneficiary that is transferred or deposited

within sixty (60) days of the distribution into an account for another beneficiary who is a member of the family of the current beneficiary, in each case to the extent permitted as a rollover distribution, as defined in section 529(c)(3)(C)(i) of the *Internal Revenue Code* and the Treasury regulations (or proposed regulations) promulgated thereunder. A distribution is not a rollover distribution unless there is a change of beneficiary. The account for such other beneficiary may be an account established under the savings program or an account established under a qualified state tuition program in another state;

14. "Scholarship" means any scholarship and any allowance or payment described in section 135(d)(1)(B) or (C) of the *Internal Revenue Code*;

15. "Scholarship account" means an account in the savings program established by a participant that is a scholarship sponsor and maintained for the benefit of one or more current and/or future beneficiaries;

16. "Scholarship sponsor" means the state of Missouri, an instrumentality of the state of Missouri, a political subdivision of the state of Missouri, or an organization described in section 501(c)(3) of the *Internal Revenue Code*, in each case who establishes one or more accounts as part of a scholarship program;

17. "Statute" means sections 166.400 to 166.455, RSMo, as amended from time to time; and

18. "Withdrawal due to death, disability or scholarship of beneficiary" means a distribution from an account established under the savings program (i) made because of death or disability of the beneficiary, or (ii) made because of the receipt of a scholarship by the beneficiary to the extent that such distribution does not exceed the amount of such scholarship.

(3) Purposes. The purposes of the savings program are (a) to encourage savings to enable students to continue their education by attending eligible educational institutions, and (b) to enable participants and beneficiaries to avail themselves of tax benefits provided for qualified state tuition programs under the *Internal Revenue Code*.

(4) Program administration and management. The savings program shall be administered and managed in compliance with the provisions of the *Internal Revenue Code* (including section 529, other applicable sections and implementing regulations and guidelines), the statute and this rule. Procedures and forms for use in the administration and management of the savings program shall be subject to the approval of the board. If the board designates a third party to assist or act for the board with respect to the administration and management of the savings program, the references herein to the board shall govern such a designee of the board.

(5) Savings Program Participation and Participation Agreements.

(A) Beneficiary Eligibility. A beneficiary may be any individual designated as such in a participation agreement.

(B) Participant Eligibility. A participant may be any person (i) who submits to the board a completed participation agreement, and an address for each of the participant and the beneficiary in the United States, and (ii) who otherwise meets the qualifications set forth in federal law, Missouri law and regulations governing the savings program. A participant that establishes a scholarship account shall provide the valid social security numbers or taxpayer identification numbers and addresses in the United States of each beneficiary of the applicable scholarship account prior to or in connection with a request for a distribution.

(C) Participation Agreements. To participate in the savings program, a prospective participant must submit a completed participation agreement with either an initial contribution or a selection of electronic funds transfer or payroll deduction as the method of initial contribution. The participation agreement will provide that the participant (and any successor account owner) will retain ownership of payments made under the program through the opening of an account in the name of the participant and for the benefit of the beneficiary designated by such participant (or the successor account owner). Only one account owner and one beneficiary is permitted per account, except that scholarship accounts may be established for the benefit of one or more present or future beneficiaries. One or more participants may establish accounts for a single beneficiary. Each participant agreement shall impose a penalty on the early distribution of funds in accordance with section 166.430 of the statute. Each participation agreement shall provide that the participation agreement may be canceled upon the terms and conditions set forth therein, subject to subsection (5)(I) below.

(D) Contributions. All contributions to accounts shall be in cash. The maximum amount which may be contributed annually by a participant with respect to a beneficiary shall be established by the board, from time to time, but in no event shall be more than the total contribution limit described in the succeeding sentence. The total contributions that may be held in an account shall be the amount established by the board from time to time, but in no event shall be more than the maximum amount permitted for the savings program to qualify as a "qualified state tuition program" pursuant to section 529 of the *Internal Revenue Code*.

(E) Excess Contributions and Balances. Contributions for any beneficiary shall be rejected (or, if accepted in error or resulting from a change of beneficiary, returned to the account owner with any earnings thereon and less any penalties applicable thereto) if the amount of the contributions in the account together with the contributions in other accounts established under the program for the benefit of the same beneficiary would cause the aggregate amount held for such beneficiary to exceed the maximum amount established by the board from time to time, but in no event more than the amount permitted under section 529 of the *Internal Revenue Code*. Any payment of such excess balances to the account owner shall be a non-qualified withdrawal subject to the penalties set forth in subsection (6)(d) below or such lesser amount as may be permitted by section 529 of the *Internal Revenue Code*.

(F) Changes to Beneficiary. An account owner may change the beneficiary designated for an account to any member of the family of the current beneficiary at any time, without penalty, by submitting a completed change of beneficiary form to the board in such form as the board may specify from time to time. Any change of beneficiary by an account owner other than as permitted in the foregoing sentence shall be a non-qualified withdrawal subject to the penalties set forth in subsection (6)(D) below.

(G) Rollover Distributions. An account owner may transfer, in a rollover distribution, all or part of the account balance to an account for another beneficiary who is a member of the family of the current beneficiary by submitting a completed request for transfer of account funds in such form as the board may specify from time to time.

(H) Changes of Account Ownership. An account owner may transfer ownership of an account to another person eligible to be a participant under the provisions of the statute and this rule, and upon receipt of a request for change of account owner that satisfies the criteria set forth in this subsection, the transferee shall be considered the account owner for all purposes related to the savings program, regardless of the source of subsequent contributions.

1. General rule. Any such change of account ownership shall be effective provided that the transfer (a) is irrevocable, (b) transfers all ownership, reversionary rights, and powers of appointments (i.e., power to change beneficiaries and to direct distributions from the account), and (c) is submitted to the board on a change of account owner form in such form as the board may specify from time to time and completed by the account owner (or, in the event of the death of the account owner, by the personal representative of his or her estate).

2. Designation of contingent account owners. Any account owner that is an individual person may designate a contingent account owner for its account, to become the owner of the account automatically upon the death of such account owner. Upon the death of an account owner who has made such a designation of contingent account owner, the assets of the account shall not be deemed assets of such person's estate for any reason. Prior to the initial action taken by the contingent account owner following the death of the deceased account owner, the contingent account owner shall provide a certified copy of a death certificate sufficiently identifying said deceased account owner by name and social security number or taxpayer identification number, or such other proof of death as is recognized under applicable law.

(I) Cancellation. A participant may cancel a participation agreement at any time by submitting to the board's designee a notice to terminate the participation agreement in such form as the board may specify from time to time. Except as provided in section 166.430 of the statute, any non-qualified withdrawal distributed as a result of such cancellation shall be subject to the penalty as provided in subsection (6)(D) below.

(J) Copy of Agreement to Account Owner. Upon request by an account owner, the board shall provide the account owner with a copy of the participation agreement executed by the account owner, or inform the account owner that the board does not have a copy thereof, mailed within ten (10) business days of receipt of the account owner's request.

(K) Separate Accounting. The board shall provide separate accounting (as provided in section 529 of the *Internal Revenue Code*) for each beneficiary for each account.

(6) Payment of Benefits; Withdrawals

(A) Qualified Withdrawals. An account owner may request a qualified withdrawal from its account by submitting a completed request for qualified withdrawal to the board in such form as the board may specify from time to time, provided that any such request for a qualified withdrawal may be made only after such account has been opened for a period of at least twelve (12) months.

(B) Withdrawals Due to Death, Disability or Scholarship of Beneficiary. An account owner may request a withdrawal due to death, disability or scholarship of beneficiary from its account by submitting a completed request for withdrawal due to death, disability or scholarship of beneficiary to the board in such form as the board may specify from time to time. Prior to a withdrawal due to death, disability or scholarship of beneficiary from an account due to the death or disability of the beneficiary of that account, or because the beneficiary has received a scholarship to be applied toward attendance at an eligible educational institution, the account owner shall certify the reason for the distribution and provide written confirmation from a third-party that the beneficiary has in fact died, become disabled with a disability, or received a scholarship for attendance at an eligible educational institution. A request to make a distribution due to the death or disability of, or a scholarship award to, the beneficiary shall not be considered complete until such third-party written confirmation is received by the board. For purposes of this subsection, third-party written confirmation shall consist of the following documentation:

1. For death of the beneficiary, a certified copy of a death certificate sufficiently identifying said beneficiary by name and social security number or taxpayer identification number, or such other proof of death as is recognized under applicable law.

2. For disability of the beneficiary, a certification by a physician who is a doctor of medicine or osteopathy that indicates that he or she is legally authorized to practice in a state of the United States and that the beneficiary is unable to attend any eligible educational institution because of an injury or illness that is expected to continue indefinitely or result in death. Such certification shall be on a form provided or approved by the board.

3. For a scholarship award to the beneficiary, a letter from the grantor of the scholarship or from the eligible educational institution receiving or administering the scholarship, that identifies the beneficiary by name and social security number or taxpayer identification number as recipient of the scholarship and states the amount of the scholarship, the period of time or number of credits or units to which it applies, the date of the scholarship, and, if applicable, the eligible educational institution to which the scholarship is to be applied.

(C) Other Withdrawals. An account owner may request a distribution from an account that is made after amounts are held in such account for the minimum length of time permitted if at all by section 529 of the *Internal Revenue Code* without the imposition of a penalty. Such account owner may request such distribution by submitting a completed request for a distribution to the board in such form as the board may specify from time to time.

(D) Non-Qualified Withdrawals; Penalties. An account owner may request a non-qualified withdrawal by submitting a completed non-qualified withdrawal request form to the board in such form as the board may specify from time to time. Any such non-qualified withdrawal shall be subject to the penalty described in this subsection (6)(D). A penalty shall be withheld, and paid to the board from an account with respect to each non-qualified withdrawal, in an amount equal to ten percent (10%) of the earnings portion of such withdrawal. Such penalty amount is a more than *de minimis* penalty for the purposes of section 529 of the *Internal Revenue Code*. If required, such penalty amount shall be increased to the minimum amount identified by the Internal Revenue Service as a "safe harbor" in order for it to be more than *de minimis* for the purposes of section 529 of the *Internal Revenue Code*. Penalties shall be imposed, collected and applied in a manner consistent with section 529 of the *Internal Revenue Code*.

(E) Distribution Limitations. No distributions may be made within thirty (30) days of receipt by the board of a completed change of account owner form or request to change the mailing address of the account owner, unless the current account owner's signature is signature guaranteed on the request.

(F) Security. An account owner or beneficiary may not use any account or other interest in the savings program or any portion thereof as security for a loan.

(7) Investments

(A) General (Investment Standards and Objectives). The board shall invest the funds received from participants, together with any income thereon, in such investments as the board shall reasonably determine will achieve a long-term total return through a combination of capital appreciation and current income. In exercising or delegating its investment powers and authority, the board shall exercise ordinary business care and prudence under the facts and circumstances prevailing at the time of the action or decision. In accordance with the standards established herein and in the statute, the board may invest, through the board or any investment manager, funds received pursuant to the savings program. Any such investment shall be made solely in the interest of the account owners and beneficiaries and for the exclusive purposes of providing benefits to beneficiaries and defraying reasonable expenses of administering the program. An account owner or beneficiary may not directly or indirectly direct the investment of any contributions or earnings of the savings program.

(B) Delegation of investment discretion. The board may delegate to its duly appointed investment counselor authority to act in place of board in the investment or reinvestment of all or part of the funds, and may also delegate to such counselor the authority to act in place of the board in the holding, purchasing, selling, assigning, transferring or disposing of any or all of the securities and investments in which such funds shall have been invested, as well as the proceeds of such investments and such moneys. Such investment counselor shall be registered as an investment advisor with the United States Securities and Exchange Commission.

(8) Costs of Administration. All costs of administration of the savings program shall be borne by the account owners, from amounts paid as penalties on account of non-qualified withdrawals or early qualified withdrawals and from amounts on deposit in the accounts, as described in more detail in the participation agreements.

(9) Severability. If any provision of this rule, or the application of it to any person or circumstance, is determined to be invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions of this regulation which can be given effect without the invalid provision or application, and to that end, the provisions of this regulation are severable.

*AUTHORITY: section 166.415, RSMo Supp. 1998. Emergency rule filed Aug. 30, 1999; effective Sept. 14, 1999, expires March 12, 2000. A proposed rule covering substantially the same material is published in this issue of the **Missouri Register**.*

Title 19—DEPARTMENT OF HEALTH
Division 20—Division of Environmental Health and Epidemiology
Chapter 8—Lead Program

EMERGENCY RESCISSION

19 CSR 20-8.010 Accreditation of Lead Training Program. This rule established the requirements for the accreditation of training programs for lead inspectors, lead abatement workers, and lead abatement contractors/supervisors.

PURPOSE: This rule is being rescinded because new rules 19 CSR 30-70.110–19 CSR 30-70.640 have been developed to expand and clarify the minimum standards for the lead abatement licensure and accreditation program and to address technological trends and advances.

*EMERGENCY STATEMENT: This emergency rule is necessary in order for the Missouri Department of Health to continue to administer and enforce standards for lead-bearing substance activities to protect human health and the environment. Such rule has to be in effect in order for the Environmental Protection Agency to review and authorize the Missouri Department of Health to continue to administer and enforce the standards, regulations and other requirements for lead-bearing substance activities. Upon receipt of the Missouri Department of Health's application and certification that the state lead-bearing substance program is at least as protective as the federal program and provides adequate enforcement, the program shall be deemed authorized by the Environmental Protection Agency unless and until the Environmental Protection Agency disapproves the program application or withdraws the program authorization. The application must contain regulations, statutes and other standards regarding the administration and enforcement of this state program. Without emergency promulgation of this rule, as of August 30, 1999, the Environmental Protection Agency will usurp the authority of the state as to the regulation of lead-bearing substance activities. The Missouri Department of Health finds an immediate danger to the public health and welfare and a compelling government interest, which require emergency action. The scope of this rule is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri** and **United States Constitutions**. The Department of Health believes this emergency rule is fair to all interested persons and parties under the circumstances. The emergency rule was filed August 19, 1999, effective August 30, 1999, and expires February 25, 2000.*

*AUTHORITY: sections 701.314, RSMo 1994. Emergency rule filed Nov. 2, 1994, effective Nov. 12, 1994, expired March 11, 1995. Emergency rule filed March 1, 1995, effective March 12, 1995, expired July 9, 1995. Original rule filed Nov. 2, 1994, effective June 30, 1995. Emergency rescission filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. A proposed rescission covering this same material is published in this issue of the **Missouri Register**.*

Title 19—DEPARTMENT OF HEALTH
Division 20—Division of Environmental Health and Epidemiology
Chapter 8—Lead Program

EMERGENCY RESCISSION

19 CSR 20-8.020 Licensing of Lead Inspectors, Lead Abatement Workers and Lead Abatement Supervisors/Contractors. This rule established the requirements for licensing lead inspectors, lead abatement workers, and lead abatement contractors/supervisors.

PURPOSE: This rule is being rescinded because new rules 19 CSR 30-70.110–19 CSR 30-70.640 have been developed to expand and clarify the minimum standards for the lead abatement licensure and accreditation program and to address technological trends and advances.

*EMERGENCY STATEMENT: This emergency rule is necessary in order for the Missouri Department of Health to continue to administer and enforce standards for lead-bearing substance activities to protect human health and the environment. Such rule has to be in effect in order for the Environmental Protection Agency to review and authorize the Missouri Department of Health to continue to administer and enforce the standards, regulations and other requirements for lead-bearing substance activities. Upon receipt of the Missouri Department of Health's application and certification that the state lead-bearing substance program is at least as protective as the federal program and provides adequate enforcement, the program shall be deemed authorized by the Environmental Protection Agency unless and until the Environmental Protection Agency disapproves the program application or withdraws the program authorization. The application must contain regulations, statutes and other standards regarding the administration and enforcement of this state program. Without emergency promulgation of this rule, as of August 30, 1999, the Environmental Protection Agency will usurp the authority of the state as to the regulation of lead-bearing substance activities. The Missouri Department of Health finds an immediate danger to the public health and welfare and a compelling government interest, which require emergency action. The scope of this rule is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri** and **United States Constitutions**. The Department of Health believes this emergency rule is fair to all interested persons and parties under the circumstances. The emergency rule was filed August 19, 1999, effective August 30, 1999, and expires Feb. 25, 2000.*

*AUTHORITY: sections 701.314, RSMo 1994. Emergency rule filed Nov. 2, 1994, effective Nov. 12, 1994, expired March 11, 1995. Emergency rule filed March 1, 1995, effective March 12, 1995, expired July 9, 1995. Original rule filed Nov. 2, 1994, effective June 30, 1995. Emergency rescission filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. A proposed rescission covering this same material is published in this issue of the **Missouri Register**.*

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

EMERGENCY RULE

19 CSR 30-70.110 Definitions and Abbreviations for Lead Abatement and Assessment Licensing

PURPOSE: This rule provides definitions and abbreviations to be used in the interpretation and enforcement of 19 CSR 30-70.110 through 19 CSR 30-70.200.

*EMERGENCY STATEMENT: This emergency rule is necessary in order for the Missouri Department of Health to continue to administer and enforce standards for lead-bearing substance activities to protect human health and the environment. Such rule has to be in effect in order for the Environmental Protection Agency to review and authorize the Missouri Department of Health to continue to administer and enforce the standards, regulations and other requirements for lead-bearing substance activities. Upon receipt of the Missouri Department of Health's application and certification that the state lead-bearing substance program is at least as protective as the federal program and provides adequate enforcement, the program shall be deemed authorized by the Environmental Protection Agency unless and until the Environmental Protection Agency disapproves the program application or withdraws the program authorization. The application must contain regulations, statutes and other standards regarding the administration and enforcement of this state program. Without emergency promulgation of this rule, as of August 30, 1999, the Environmental Protection Agency will usurp the authority of the state as to the regulation of lead-bearing substance activities. The Missouri Department of Health finds an immediate danger to the public health and welfare and a compelling government interest, which require emergency action. The scope of this rule is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri** and **United States Constitutions**. The Department of Health believes this emergency rule is fair to all interested persons and parties under the circumstances. The emergency rule was filed August 19, 1999, effective August 30, 1999, and expires February 25, 2000.*

(1) EPA, is the United States Environmental Protection Agency.

(2) Large-scale abatement project, is a lead abatement project consisting of ten (10) or more dwellings.

(3) Occupation, is one of the specific types or categories of lead-bearing substance activities identified in these regulations for which individuals may receive training from accredited training providers. This includes, but not limited to, lead inspector, risk assessor, lead abatement worker, lead abatement supervisor and/or project designer.

(4) OLLA, is the Missouri Department of Health Office of Lead Licensing and Accreditation.

(5) Passing score, is a grade of 70% or better on the state examination for a lead occupation license.

(6) Reciprocity, is an agreement between OLLA and other states who have similar licensing provisions.

(7) Refresher course, is the course of instruction established by these regulations which must be periodically completed to obtain or maintain an individual's licensure in a single occupation.

(8) Renewal, is the re-issuance of a lead occupation license.

(9) Training Course, is the course of instruction established by these regulations to prepare an individual for licensure in a single occupation.

(10) Training Provider, is a person or entity providing training courses for the purpose of state licensure or licensure renewal in the occupations of lead inspector, risk assessor, lead abatement worker, lead abatement supervisor, and/or project designer.

*AUTHORITY: sections 701.301 and 701.312, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. A proposed rule covering this same material is published in this issue of the **Missouri Register**.*

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

EMERGENCY RULE

19 CSR 30-70.120 General

PURPOSE: This rule outlines specific responsibilities that apply to all applicants of a lead occupation license and all licensed individuals.

*EMERGENCY STATEMENT: This emergency rule is necessary in order for the Missouri Department of Health to continue to administer and enforce standards for lead-bearing substance activities to protect human health and the environment. Such rule has to be in effect in order for the Environmental Protection Agency to review and authorize the Missouri Department of Health to continue to administer and enforce the standards, regulations and other requirements for lead-bearing substance activities. Upon receipt of the Missouri Department of Health's application and certification that the state lead-bearing substance program is at least as protective as the federal program and provides adequate enforcement, the program shall be deemed authorized by the Environmental Protection Agency unless and until the Environmental Protection Agency disapproves the program application or withdraws the program authorization. The application must contain regulations, statutes and other standards regarding the administration and enforcement of this state program. Without emergency promulgation of this rule, as of August 30, 1999, the Environmental Protection Agency will usurp the authority of the state as to the regulation of lead-bearing substance activities. The Missouri Department of Health finds an immediate danger to the public health and welfare and a compelling government interest, which require emergency action. The scope of this rule is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri** and **United States Constitutions**. The Department of Health believes this emergency rule is fair to all interested persons and parties under the circumstances. The emergency rule was filed August 19, 1999, effective August 30, 1999, and expires February 25, 2000.*

(1) Waiver. Applicants for licensure and/or licensees may authorize others, such as their employer, to act on their behalf regarding their license application. Such authorization shall be indicated on the application form provided by OLLA. If at any time the applicant and/or licensee decides to change this authorization, the applicant and/or the licensee shall notify OLLA in writing of such change.

(2) Change of Address. Licensed individuals shall notify OLLA in writing of a change of mailing address no later than thirty (30) days following the change. Licensed contractors shall notify OLLA in writing of a change of business address no later than thirty (30) days following the change. Until a change of address is received, all correspondence will be mailed to the individual's mailing address and the contractor's business address indicated on the most recent application form.

(3) Reciprocity. OLLA may issue a lead occupation license to any person or entity who has made application and provided proof of certification or licensure from another state, provided that OLLA has entered into a reciprocity agreement with that state, and the necessary fees have been paid.

(4) Suspension, Revocation or Restriction of a Lead Occupation License.

(A) OLLA may restrict, suspend or revoke a license issued under sections 701.300 through 701.338, RSMo, for any one or any combination of the following causes:

1. Providing any false information in the application;

2. Violations of 29 CFR part 1926.62 or 29 CFR part 1926.59;

3. History of citations or violations of existing lead abatement regulations or standards;

4. Fraud or failure to disclose facts relevant to his or her application and/or license;

5. Performing work requiring licensure at the job site without having proof of licensure;

6. Conviction of a felony under any state or federal law or having entered a plea of guilty or *nolo contendere* in a criminal prosecution under the laws of any state or of the United States;

7. Permitting the duplication or use of the individual's own training certificate, license, or license identification by another;

8. Performing work requiring licensure at a job site without being licensed;

9. Failure to comply with any state or federal law or regulation, including, but not limited to, any part of sections 701.300 through 701.338, RSMo, or any rules promulgated pursuant to these sections;

10. Other information which may affect the licensee's ability to appropriately perform lead-bearing substance activities; or

11. Final disciplinary action against a licensee by another state, territory, federal agency or country, whether or not voluntarily agreed to by the licensee, including, but not limited to, the denial of licensure, surrender of the license, allowing the license to expire or lapse, or discontinuing or restricting the license while subject to investigation or while actually under investigation by another state, territory, or federal agency or country.

(B) Prior to restricting, suspending, or revoking a license, the licensee will be given written notice of the reasons for the suspension, revocation and/or restriction. The licensee may appeal the determination of OLLA by requesting a hearing before the Administrative Hearing Commission as provided by section 621.045 RSMo.

(5) Replacement fee. A fifteen dollar ($15) fee will be assessed for duplicate and/or replacement license certificates or identification badges.

AUTHORITY: sections 701.301, 701.312 and 701.316, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. A proposed rule covering this same material is published in this issue of the ***Missouri Register****.*

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

EMERGENCY RULE

19 CSR 30-70.130 Application Process and Requirements for the Licensure of Lead Inspectors

PURPOSE: This rule provides the requirements to be licensed as a lead inspector.

EMERGENCY STATEMENT: This emergency rule is necessary in order for the Missouri Department of Health to continue to administer and enforce standards for lead-bearing substance activities to protect human health and the environment. Such rule has to be in effect in order for the Environmental Protection Agency to review and authorize the Missouri Department of Health to continue to administer and enforce the standards, regulations and other requirements for lead-bearing substance activities. Upon receipt of the Missouri Department of Health's application and certification that the state lead-bearing substance program is at least as protective as the federal program and provides adequate enforcement, the program shall be deemed authorized by the Environmental Protection Agency unless and until the Environmental Protection Agency disapproves the program application or withdraws the program authorization. The application must contain regulations, statutes and other standards regarding the administration and enforcement of this state program. Without emergency promulgation of this rule, as of August 30, 1999, the Environmental Protection Agency will usurp the authority of the state as to the regulation of lead-bearing substance activities. The Missouri Department of Health finds an immediate danger to the public health and welfare and a compelling government interest, which require emergency action. The scope of this rule is limited to the circumstances creating the emergency and complies with the protections extended in the ***Missouri*** *and* ***United States Constitutions****. The Department of Health believes this emergency rule is fair to all interested persons and parties under the circumstances. The emergency rule was filed August 19, 1999, effective August 30, 1999, and expires February 25, 2000.*

(1) Application for a Lead Inspector License.

(A) An applicant for a Lead Inspector license must submit a completed application to OLLA prior to consideration for license issuance. All applications for licensure must be received by OLLA at least thirty (30) days prior to the date of the state lead examination; provided, however, OLLA may waive the time for the filing of applications as particular circumstances justify. Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The application shall include the following:

1. Completed lead occupation license application form provided by OLLA which shall include:

A. The applicant's full legal name, home address, and telephone number;

B. The name, address, and telephone number of the applicant's current employer;

C. The applicant's social security number;

D. The county or counties in which the applicant is employed;

E. The location where the applicant would like to receive correspondence regarding his or her application or license;

F. The occupation the applicant wishes to be licensed for;

G. Licensure for lead occupations in other states, including name of other states, type of license, license expiration date, and license number, and copies of other states' license/certificate;

H. Certification by the EPA, including EPA region number, type of certification, certification expiration date, certification number, and a copy of the EPA certificate;

I. Type of training completed, including name of training provider, certificate identification number and dates of course completion;

J. Employment history and/or education which meets the experience and/or education requirements in section (3)(B)1 of this regulation; and

K. Signature of the applicant which certifies that all information in the application is complete and true to the best of the applicant's knowledge and that the applicant will comply with applicable state statutes and regulations.

2. A copy of the OLLA- or EPA-accredited Lead Inspector training program completion certificate, and any required refresher completion certificates;

3. Two (2) recent passport-size color photographs of the applicant's face without a hat or sunglasses (computer generated or photocopied photographs are not acceptable);

4. Documentation pursuant to section (3)(B)2 of this regulation as evidence of meeting the education and/or experience requirements for Lead Inspectors; and

5. A check or money order made payable to the Missouri Department of Health for the nonrefundable fee of one hundred dollars ($100).

(C) An applicant for a Lead Inspector license shall apply to OLLA within one (1) year of the applicant's successful completion of an OLLA- or EPA-accredited Lead Inspector training course, as indicated on the certificate of completion. Applicants failing to apply within one (1) year from the date on the training course completion certificate shall, before making application for license, successfully complete the eight (8) hour Lead Inspector refresher training course accredited by OLLA or the EPA.

(D) Applicants failing to apply within three (3) years of the Lead Inspector training and who have not successfully completed annual refresher training, shall successfully complete the OLLA- or EPA-accredited Lead Inspector training course again before submitting application for a Lead Inspector license.

(2) Application for a Lead Inspector License under Reciprocity.

(A) An applicant for a Lead Inspector license by reciprocity must submit a completed application to OLLA prior to consideration for license issuance. Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The application shall include the following:

1. Completed lead occupation license application form provided by OLLA which shall include:

A. The applicant's full legal name, home address, and telephone number;

B. The name, address, and telephone number of the applicant's current employer;

C. The applicant's social security number;

D. The location where the applicant would like to receive correspondence regarding his or her application or license;

E. The occupation the applicant wishes to be licensed for;

F. Licensure for lead occupations in other states, including name of other states, type of license, license expiration date, and license number, and copies of other states' license/certificate;

G. Certification by the EPA, including EPA region number, type of certification, certification expiration date, certification number, and a copy of the EPA certificate; and

H. Signature of the applicant which certifies that all information in the application is complete and true to the best of the applicant's knowledge and that the applicant will comply with applicable state statutes and regulations.

2. Two (2) recent passport-size color photographs of the applicant's face without a hat or sunglasses (computer generated or photocopied photographs are not acceptable); and

3. A check or money order made payable to the Missouri Department of Health for the nonrefundable fee of one hundred dollars ($100).

(3) Training, Education and Experience Requirements for Lead Inspector License.

(A) An applicant for a license as a lead inspector shall complete an OLLA- or EPA-accredited Lead Inspector training program (see 19 CSR 30-70.330) and pass the course examination with a score of seventy percent (70%) or more.

(B) An applicant for a license as a lead inspector shall meet minimum education and/or experience requirements for a licensed lead inspector.

1. The minimum education and/or experience requirements for licensed Lead Inspector includes at least one (1) of the following:

A. A Bachelor's degree;

B. An Associate's degree and one (1) year experience in a related field such as lead, asbestos, housing repair or inspection, and/or environmental hazard remediation work; or

C. A high school diploma or certificate of high school equivalency (GED) and two (2) years of experience in a related field such as lead, asbestos, housing repair or inspection, and/or environmental hazard remediation work.

2. The following documents will be recognized by OLLA as evidence of meeting the requirements listed in section (3)(B) of this regulation:

A. Official academic transcripts or diploma as evidence of meeting the education requirements.

B. Resumes, letters of reference, or documentation of work experience, which, at a minimum, includes dates (month and year) of employment, employer's name, address and telephone number, and specific job duties, as evidence of meeting the work experience requirements.

C. Course completion certificates issued by the OLLA- or EPA-accredited training program as evidence of meeting the training requirements.

(4) Procedure for Issuance or Denial of Lead Inspector License.

(A) OLLA will inform the applicant in writing that the application is either approved, incomplete, or denied.

1. If an application is incomplete, the notice will include a list of additional information or documentation required to complete the application.

A. Within thirty (30) calendar days after the issuance date of the notice, the applicant shall submit to OLLA in writing, the information requested in the written notice.

B. Failure to submit the information requested in the written notice within thirty (30) calendar days shall result in OLLA's denial of the applicant's application for a lead inspector license.

C. After receipt of the information requested in the written notice, OLLA will inform the applicant in writing that the application is either approved or denied.

2. When an application for a Lead Inspector license is denied, the written notice of denial to the applicant will specify the reasons for the denial. OLLA may deny a Lead Inspector license for any one or any combination of the following reasons:

A. Failure to satisfy the education and/or experience requirements;

B. Type and amount of training;

C. False or misleading statements in the application;

D. Failure to achieve a passing score on the state examination after three (3) attempts;

E. Failure to submit a complete application;

F. History of citations or violations of existing lead abatement regulations or standards;

G. Violations of 29 CFR part 1926.62 or 29 CFR part 1926.59;

H. Fraud or failure to disclose facts relevant to his or her application;

I. Conviction of a felony under any state or federal law or having entered a plea of guilty or *nolo contendere* in a criminal prosecution under the laws of any state or of the United States;

J. Permitting the duplication or use by another of the individual's training certificate;

K. Other information which may affect the applicant's ability to appropriately perform lead inspections;

L. Failure to comply with any state or federal law or regulation, including, but not limited to, any part of sections 701.300 through 701.338, RSMo, or any rules promulgated pursuant to those sections; or

M. Final disciplinary action against a licensee by another state, territory, federal agency or country, whether or not voluntarily agreed to by the licensee, including, but not limited to, the denial of licensure, surrender of the license, allowing the license to expire or lapse, or discontinuing or restricting the license while subject to investigation or while actually under investigation by another state, territory, or federal agency or country.

3. If an application is denied, the applicant may reapply to OLLA for a lead inspector license by submitting a complete lead occupation license application form with another nonrefundable fee of one hundred dollars ($100).

4. If an applicant is aggrieved by a determination to deny licensure, the applicant may appeal OLLA's denial to the Administrative Hearing Commission as provided by section 621.045, RSMo.

(B) Within one hundred and eighty (180) calendar days of application approval, the applicant shall attain a passing score on the state Lead Inspector examination.

1. An applicant cannot sit for the state lead inspector examination more than three (3) times within one hundred and eighty (180) calendar days after the issuance date of the notice of an approved application.

2. The applicant's failure to attain a passing score on the state lead inspector examination within the one hundred eighty (180) day period following the notice of an approved application for a license shall result in OLLA's denial of the applicant's application for a license. The individual may reapply to OLLA pursuant to this regulation but only after retaking an OLLA- or EPA-accredited lead inspector training course.

(C) After the applicant passes the state lead inspector examination, OLLA will issue a two (2)-year lead inspector license certificate and photo identification badge.

(D) Restricted licenses may be issued pursuant to an agreement between the applicant or licensee and OLLA.

AUTHORITY: sections 701.301, 701.312 and 701.316, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. A proposed rule covering this same material is published in this issue of the ***Missouri Register****.*

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

EMERGENCY RULE

19 CSR 30-70.140 Application Process and Requirements for the Licensure of Risk Assessors

PURPOSE: This rule provides the requirements to be licensed as a risk assessor.

EMERGENCY STATEMENT: This emergency rule is necessary in order for the Missouri Department of Health to continue to administer and enforce standards for lead-bearing substance activities to protect human health and the environment. Such rule has to be in effect in order for the Environmental Protection Agency to review and authorize the Missouri Department of Health to continue to administer and enforce the standards, regulations and other requirements for lead-bearing substance activities. Upon receipt of the Missouri Department of Health's application and certification that the state lead-bearing substance program is at least as protective as the federal program and provides adequate enforcement, the program shall be deemed authorized by the Environmental Protection Agency unless and until the Environmental Protection Agency disapproves the program application or withdraws the program authorization. The application must contain regulations, statutes and other standards regarding the administration and enforcement of this state program. Without emergency promulgation of this rule, as of August 30, 1999, the Environmental Protection Agency will usurp the authority of the state as to the regulation of lead-bearing substance activities. The Missouri Department of Health finds an immediate danger to the public health and welfare and a compelling government interest, which require emergency action. The scope of this rule is limited to the circumstances creating the emergency and complies with the protections extended in the ***Missouri*** *and* ***United States Constitutions****. The Department of Health believes this emergency rule is fair to all interested persons and parties under the circumstances. The emergency rule was filed August 19, 1999, effective August 30, 1999, and expires February 25, 2000.*

(1) Application for a Risk Assessor License.

(A) An applicant for a Risk Assessor license must submit a completed application to OLLA prior to consideration for license issuance. All applications for licensure must be received by OLLA at least thirty (30) days prior to the date of the state lead examination; provided, however, OLLA may waive the time for the filing of applications as particular circumstances justify. Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The application shall include the following:

1. Completed lead occupation license application form provided by OLLA which shall include:

A. The applicant's full legal name, home address, and telephone number;

B. The name, address, and telephone number of the applicant's current employer;

C. The applicant's social security number;

D. The county or counties in which the applicant is employed;

E. The location where the applicant would like to receive correspondence regarding his or her application or license;

F. The occupation the applicant wishes to be licensed for;

G. Type of training completed, including name of training provider, certificate identification number and dates of course completion;

H. Licensure for lead occupations in other states, including name of other states, type of license, license expiration date, and license number, and copies of other states' license/certificate;

I. Certification by the EPA, including EPA region number, type of certification, certification expiration date, certification number, and a copy of the EPA certificate;

J. Employment history and/or education which meets the experience and/or education requirements in section (3)(B)1 of this regulation; and

K. Signature of the applicant which certifies that all information in the application is complete and true to the best of the

applicant's knowledge and that the applicant will comply with applicable state statutes and regulations.

2. A copy of the OLLA- or EPA-accredited Lead Inspector and Risk Assessor training program completion certificates and any required refresher completion certificates;

3. Two (2) recent passport-size color photographs of the applicant's face without a hat or sunglasses (computer generated or photocopied photographs are not acceptable);

4. Documentation pursuant to section (3)(B)2 of this regulation as evidence of meeting the education and/or experience requirements for Risk Assessors; and

5. A check or money order made payable to the Missouri Department of Health for the nonrefundable fee of one hundred dollars ($100).

(C) An applicant for a Risk Assessor license shall apply to OLLA within one (1) year of the applicant's successful completion of an OLLA- or EPA-accredited Risk Assessor training course, as indicated on the certificate of completion. Applicants failing to apply within one (1) year from the date on the training program completion certificates shall, before making application for license, successfully complete the eight (8) hour Risk Assessor refresher training course accredited by OLLA or the EPA.

(D) Applicants failing to apply within three (3) years of the Risk Assessor training and who have not successfully completed annual refresher training, shall successfully complete the OLLA- or EPA-accredited Risk Assessor training course again before submitting application for a Risk Assessor License.

(2) Application for a Risk Assessor License under Reciprocity.

(A) An applicant for a Risk Assessor license by reciprocity must submit a completed application to OLLA prior to consideration for license issuance. Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The application shall include the following:

1. Completed lead occupation license application form provided by OLLA which shall include:

A. The applicant's full legal name, home address, and telephone number;

B. The name, address, and telephone number of the applicant's current employer;

C. The applicant's social security number;

D. The location where the applicant would like to receive correspondence regarding his or her application or license;

E. The occupation the applicant wishes to be licensed for;

F. Licensure for lead occupations in other states, including name of other states, type of license, license expiration date, and license number, and copies of other states' license/certificate;

G. Certification by the EPA, including EPA region number, type of certification, certification expiration date, certification number, and a copy of the EPA certificate; and

H. Signature of the applicant which certifies that all information in the application is complete and true to the best of the applicant's knowledge and that the applicant will comply with applicable state statutes and regulations.

2. Two (2) recent passport-size color photographs of the applicant's face without a hat or sunglasses (computer generated or photocopied photographs are not acceptable); and

3. A check or money order made payable to the Missouri Department of Health for the nonrefundable fee of one hundred dollars ($100).

(3) Training, Education and Experience Requirements for Risk Assessor License.

(A) An applicant for a license as a Risk Assessor shall complete an OLLA- or EPA-accredited Lead Inspector training program and an OLLA- or EPA-accredited Risk Assessor training program (see 19 CSR 30-70.340) and pass both of the course examinations with a score of seventy percent (70%) or more.

(B) An applicant for a license as a Risk Assessor shall meet minimum education and/or experience requirements for a licensed risk assessor.

1. The minimum education and/or experience requirements for a licensed Risk Assessor includes at least one (1) of the following:

A. A Bachelor's degree and at least one (1) year of experience in a related field such as lead, asbestos, housing repair or inspection, and/or environmental hazard remediation work;

B. An Associates degree and two (2) years experience in a related field such as lead, asbestos, housing repair or inspection, and/or environmental hazard remediation work;

C. Certification as an industrial hygienist, professional engineer, registered architect and/or certification in a related engineering/health/environmental field such as safety professional or environmental scientist; or

D. A high school diploma or certificate of high school equivalency (GED) and three (3) years of experience in a related field such as lead, asbestos, housing repair or inspection, and/or environmental hazard remediation work.

2. The following documents will be recognized by OLLA as evidence of meeting the requirements listed in section (3)(B)1 of this regulation:

A. Official academic transcripts or diploma, as evidence of meeting the education requirements.

B. Resumes, letters of reference, or documentation of work experience, which includes dates (month and year) of employment, employer's name, address and telephone number, and specific job duties, as evidence of meeting the work experience requirements.

C. Course completion certificates issued by the OLLA- or EPA-accredited training program, as evidence of meeting the training requirements.

D. Appropriate documentation of certifications or registrations.

(4) Procedure for Issuance or Denial of Risk Assessor License.

(A) OLLA will inform the applicant in writing that the application is either approved, incomplete, or denied.

1. If an application is incomplete, the notice will include a list of additional information or documentation required to complete the application.

A. Within thirty (30) calendar days after the issuance date of the notice of incomplete application, the applicant shall submit to OLLA in writing the information requested in the written notice.

B. Failure to submit the information requested in the written notice within thirty (30) calendar days shall result in OLLA's denial of the applicant's application for a Risk Assessor license.

C. After receipt of the information requested in the written notice, OLLA will inform the applicant in writing that the application is either approved or denied.

2. When an application for a Risk Assessor license is denied, the written notice of denial to the applicant will specify the reasons for the denial. OLLA may deny a Risk Assessor license for any one or any combination of the following reasons:

A. Failure to satisfy the education and/or experience requirements;

B. Type and amount of training;

C. False or misleading statements in the application;

D. Failure to achieve a passing score on the state examination after three (3) attempts;

E. Failure to submit a complete application;

F. History of citations or violations of existing lead abatement regulations or standards;

G. Violations of 29 CFR part 1926.62 or 29 CFR part 1926.59;

H. Fraud or failure to disclose facts relevant to his or her application;

I. Conviction of a felony under any state or federal law or having entered a plea of guilty or *nolo contendere* in a criminal prosecution under the laws of any state or of the United States;

J. Permitting the duplication or use by another of the individual's training certificate;

K. Other information which may affect the applicant's ability to appropriately perform risk assessments;

L. Failure to comply with any state or federal law or regulation, including, but not limited to, any part of sections 701.300 through 701.338, RSMo, or any rules promulgated pursuant to these sections; or

M. Final disciplinary action against a licensee by another state, territory, federal agency or country, whether or not voluntarily agreed to by the licensee, including, but not limited to, the denial of licensure, surrender of the license, allowing the license to expire or lapse, or discontinuing or restricting the license while subject to investigation or while actually under investigation by another state, territory, or federal agency or country.

3. If an application is denied, the applicant may reapply to OLLA for a Risk Assessor, by submitting a complete lead occupation license application form and another nonrefundable fee of one hundred dollars ($100).

4. If an applicant is aggrieved by a determination to deny licensure, the applicant may appeal OLLA's denial to the Administrative Hearing Commission as provided by section 621.045, RSMo.

(B) Within one hundred and eighty (180) calendar days after the issuance date of application approval, the applicant shall attain a passing score on the state Risk Assessor examination.

1. An applicant cannot sit for the state Risk Assessor examination more than three times within one hundred and eighty (180) calendar days after the issuance date of the notice of an approved application.

2. The applicant's failure to attain a passing score on the state Risk Assessor exam within the one hundred eighty (180) day period following the notice of an approved application for a license shall result in OLLA's denial of the applicant's application for a license. The individual may reapply to OLLA pursuant to this regulation but only after retaking an OLLA- or EPA-accredited Risk Assessor training course.

(C) After the applicant passes the state Risk Assessor examination, OLLA will issue a two (2)-year Risk Assessor license certificate and photo identification badge.

(D) Restricted licenses may be issued pursuant to an agreement between the applicant or licensee and OLLA.

AUTHORITY: sections 701.301, 701.312 and 701.316, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. A proposed rule covering this same material is published in this issue of the ***Missouri Register****.*

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

EMERGENCY RULE

19 CSR 30-70.150 Application Process and Requirements for the Licensure of Lead Abatement Workers

PURPOSE: This rule provides the requirements to be licensed as a Lead Abatement Worker.

EMERGENCY STATEMENT: This emergency rule is necessary in order for the Missouri Department of Health to continue to administer and enforce standards for lead-bearing substance activities to protect human health and the environment. Such rule has to be in effect in order for the Environmental Protection Agency to review and authorize the Missouri Department of Health to continue to administer and enforce the standards, regulations and other requirements for lead-bearing substance activities. Upon receipt of the Missouri Department of Health's application and certification that the state lead-bearing substance program is at least as protective as the federal program and provides adequate enforcement, the program shall be deemed authorized by the Environmental Protection Agency unless and until the Environmental Protection Agency disapproves the program application or withdraws the program authorization. The application must contain regulations, statutes and other standards regarding the administration and enforcement of this state program. Without emergency promulgation of this rule, as of August 30, 1999, the Environmental Protection Agency will usurp the authority of the state as to the regulation of lead-bearing substance activities. The Missouri Department of Health finds an immediate danger to the public health and welfare and a compelling government interest, which require emergency action. The scope of this rule is limited to the circumstances creating the emergency and complies with the protections extended in the ***Missouri*** *and* ***United States Constitutions****. The Department of Health believes this emergency rule is fair to all interested persons and parties under the circumstances. The emergency rule was filed August 19, 1999, effective August 30, 1999, and expires February 25, 2000.*

(1) Application for a Lead Abatement Worker License.

(A) An applicant for a Lead Abatement Worker license must submit a completed application to OLLA prior to consideration for license issuance. All applications for licensure must be received by OLLA at least thirty (30) days prior to the date of the lead abatement project; provided, however, OLLA may waive the time for the filing of applications as particular circumstances justify. Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The application shall include the following:

1. Completed lead occupation license application form provided by OLLA which shall include:

A. The applicant's full legal name, home address, and telephone number;

B. The name, address, and telephone number of the applicant's current employer;

C. The applicant's social security number;

D. The county or counties in which the applicant is employed;

E. The location where the applicant would like to receive correspondence regarding his or her application or license;

F. The occupation the applicant wishes to be licensed for;

G. Licensure for lead occupations in other states, including name of other states, type of license, license expiration date, and license number, and copies of other states' license/certificate;

H. Certification by the EPA, including EPA region number, type of certification, certification expiration date, certification number, and a copy of the EPA certificate;

I. Type of training completed, including name of training provider, certificate identification number and dates of course completion; and

J. Signature of the applicant which certifies that all information in the application is complete and true to the best of the

applicant's knowledge and that the applicant will comply with applicable state statutes and regulations.

2. A copy of the OLLA- or EPA-accredited Lead Abatement Worker training program completion certificate, and any required refresher completion certificates;

3. Two (2) recent passport-size color photographs of the applicant's face without a hat or sunglasses (computer generated or photocopied photographs are not acceptable); and

4. A check or money order made payable to the Missouri Department of Health for the nonrefundable fee of one hundred dollars ($100).

(C) An applicant for a Lead Abatement Worker license shall apply to OLLA within one (1) year of the applicant's successful completion of an OLLA- or EPA-accredited Lead Abatement Worker training course, as indicated on the certificate of completion. Applicants failing to apply within one (1) year from the date on the training program completion certificate shall, before making application for license, successfully complete the eight (8) hour Lead Abatement Worker refresher training course accredited by OLLA or the EPA.

(D) Applicants failing to apply within three (3) years of the Lead Abatement Worker training and who have not successfully completed annual refresher training, shall successfully complete the OLLA- or EPA-accredited Lead Abatement Worker training course again before submitting application for a Lead Abatement Worker license.

(2) Application for Lead a Abatement Worker License Under Reciprocity.

(A) An applicant for a Lead Abatement Worker license by reciprocity must submit a completed application to OLLA prior to consideration for license issuance. Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The application shall include the following:

1. Completed lead occupation license application form provided by OLLA which shall include:

A. The applicant's full legal name, home address, and telephone number;

B. The name, address, and telephone number of the applicant's current employer;

C. The applicant's social security number;

D. The location where the applicant would like to receive correspondence regarding his or her application or license;

E. The occupation the applicant wishes to be licensed for;

F. Licensure for lead occupations in other states, including name of other states, type of license, license expiration date, and license number, and copies of other states' license/certificate;

G. Certification by the EPA, including EPA region number, type of certification, certification expiration date, certification number, and a copy of the EPA certificate; and

H. Signature of the applicant which certifies that all information in the application is complete and true to the best of the applicant's knowledge and that the applicant will comply with applicable state statutes and regulations.

2. Two (2) recent passport-size color photographs of the applicant's face without a hat or sunglasses (computer generated or photocopied photographs are not acceptable); and

3. A check or money order made payable to the Missouri Department of Health for the nonrefundable fee of one hundred dollars ($100).

(3) Training Requirements for Lead Abatement Worker License. An applicant for a license as a Lead Abatement Worker shall complete an OLLA- or EPA-accredited Lead Abatement Worker training program (see 19 CSR 30-70.350) and pass the course examination with a score of seventy percent (70%) or more. The document that will be recognized by OLLA as evidence of meeting the requirement is listed in section (1)(C) of this regulation.

(4) Procedure for Issuance or Denial of Lead Abatement Worker License.

(A) OLLA will inform the applicant in writing that the application is either approved, incomplete, or denied.

1. If an application is incomplete, the notice will include a list of additional information or documentation required to complete the application.

A. Within thirty (30) calendar days after the issuance date of the notice of incomplete application, the applicant shall submit to OLLA in writing, the information requested in the written notice.

B. Failure to submit the information requested in the written notice within thirty (30) calendar days shall result in OLLA's denial of the applicant's application for a lead abatement worker.

C. After receipt of the information requested in the written notice, OLLA will inform the applicant in writing that the application is either approved or denied.

2. When an application for a Lead Abatement Worker license is denied, the written notice of denial to the applicant will specify the reasons for the denial. OLLA may deny a Lead Abatement Worker license for any one or any combination of the following reasons:

A. Type and amount of training;

B. False or misleading statements in the application;

C. Failure to submit a complete application;

D. History of citations or violations of existing lead abatement regulations or standards;

E. Violations of 29 CFR part 1926.62 or 29 CFR part 1926.59;

F. Fraud or failure to disclose facts relevant to his or her application;

G. Conviction of a felony under any state or federal law or having entered a plea of guilty or *nolo contendere* in a criminal prosecution under the laws of any state or of the United States;

H. Permitting the duplication or use by another of the individual's training certificate;

I. Other information which may affect the applicant's ability to appropriately perform lead abatement work;

J. Failure to comply with any state or federal law or regulation, including, but not limited to, any part of sections 701.300 through 701.338, RSMo, or any rules promulgated pursuant to these sections; or

K. Final disciplinary action against a licensee by another state, territory, federal agency or country, whether or not voluntarily agreed to by the licensee, including, but not limited to, the denial of licensure, surrender of the license, allowing the license to expire or lapse, or discontinuing or restricting the license while subject to investigation or while actually under investigation by another state, territory, or federal agency or country.

3. If an application is denied, the applicant may reapply to OLLA by submitting a complete lead occupation license application form with another nonrefundable fee of one hundred dollars ($100).

4. If an applicant is aggrieved by a determination to deny licensure, the applicant may appeal OLLA's denial to the Administrative Hearing Commission as provided by section 621.045, RSMo.

(B) After notice of complete application, OLLA will issue a two (2)-year license certificate and photo identification badge.

(C) Restricted licenses may be issued pursuant to an agreement between the applicant or licensee and OLLA.

AUTHORITY: sections 701.301, 701.312 and 701.316, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30,

*1999, expires Feb. 25, 2000. A proposed rule covering this same material is published in this issue of the **Missouri Register**.*

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

EMERGENCY RULE

19 CSR 30-70.160 Application Process and Requirements for the Licensure of Lead Abatement Supervisors

PURPOSE: This rule provides the requirements to be licensed as a Lead Abatement Supervisor.

*EMERGENCY STATEMENT: This emergency rule is necessary in order for the Missouri Department of Health to continue to administer and enforce standards for lead-bearing substance activities to protect human health and the environment. Such rule has to be in effect in order for the Environmental Protection Agency to review and authorize the Missouri Department of Health to continue to administer and enforce the standards, regulations and other requirements for lead-bearing substance activities. Upon receipt of the Missouri Department of Health's application and certification that the state lead-bearing substance program is at least as protective as the federal program and provides adequate enforcement, the program shall be deemed authorized by the Environmental Protection Agency unless and until the Environmental Protection Agency disapproves the program application or withdraws the program authorization. The application must contain regulations, statutes and other standards regarding the administration and enforcement of this state program. Without emergency promulgation of this rule, as of August 30, 1999, the Environmental Protection Agency will usurp the authority of the state as to the regulation of lead-bearing substance activities. The Missouri Department of Health finds an immediate danger to the public health and welfare and a compelling government interest, which require emergency action. The scope of this rule is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri** and **United States Constitutions**. The Department of Health believes this emergency rule is fair to all interested persons and parties under the circumstances. The emergency rule was filed August 19, 1999, effective August 30, 1999, and expires February 25, 2000.*

(1) Application for a Lead Abatement Supervisor License.

(A) An applicant for a Lead Abatement Supervisor license must submit a completed application to OLLA prior to consideration for license issuance. All applications for licensure must be received by OLLA at least thirty (30) days prior to the date of the state lead examination; provided, however, OLLA may waive the time for the filing of applications as particular circumstances justify. Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The application shall include the following:

1. Completed lead occupation license application form provided by OLLA which shall include:

A. The applicant's full legal name, home address, and telephone number;

B. The name, address, and telephone number of the applicant's current employer;

C. The applicant's social security number;

D. The county or counties in which the applicant is employed;

E. The location where the applicant would like to receive correspondence regarding his or her application or license;

F. The occupation the applicant wishes to be licensed for;

G. Type of training completed, including name of training provider, certificate identification number and dates of course completion;

H. Licensure for lead occupations in other states, including name of other states, type of license, license expiration date, and license number, and copies of other states' license/certificate;

I. Certification by the EPA, including EPA region number, type of certification, certification expiration date, certification number, and a copy of the EPA certificate;

J. Employment history which meets the experience requirements in section (3)(B)1 of this regulation; and

K. Signature of the applicant which certifies that all information in the application is complete and true to the best of the applicant's knowledge and that the applicant will comply with applicable state statutes and regulations.

2. A copy of the OLLA- or EPA-accredited Lead Abatement Supervisor training program completion certificate, and any required refresher completion certificates;

3. Two (2) recent passport-size color photographs of the applicant's face without a hat or sunglasses (computer generated or photocopied photographs are not acceptable);

4. Documentation pursuant to section (3)(B)2 of this regulation as evidence of meeting the experience requirements for Lead Abatement Supervisors; and

5. A check or money order made payable to the Missouri Department of Health for the nonrefundable fee of one hundred dollars ($100).

(C) An applicant for a Lead Abatement Supervisor license shall apply to OLLA within one (1) year of the applicant's successful completion of an OLLA- or EPA-accredited Lead Abatement Supervisor training course, as indicated on the certificate of completion. Applicants failing to apply within one (1) year from the date on the training program completion certificate shall, before making application for license, successfully complete the eight (8) hour Lead Abatement Supervisor refresher training course accredited by OLLA or the EPA.

(D) Applicants failing to apply within three (3) years of completing the Lead Abatement Supervisor training and who have not successfully completed annual refresher training, shall successfully complete the OLLA- or EPA-accredited Lead Abatement Supervisor training course again before submitting application for a Lead Abatement Supervisor license.

(2) Application for a Lead Abatement Supervisor License Under Reciprocity.

(A) An applicant for a Lead Abatement Supervisor license by reciprocity must submit a completed application to OLLA prior to consideration for license issuance. Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The application shall include the following:

1. Completed lead occupation license application form provided by OLLA which shall include:

A. The applicant's full legal name, home address, and telephone number;

B. The name, address, and telephone number of the applicant's current employer;

C. The applicant's social security number;

D. The location where the applicant would like to receive correspondence regarding his or her application or license;

E. The occupation the applicant wishes to be licensed for;

F. Licensure for lead occupations in other states, including name of other states, type of license, license expiration date, and license number, and copies of other states' license/certificate;

G. Certification by the EPA, including EPA region number, type of certification, certification expiration date, certification number, and a copy of the EPA certificate; and

H. Signature of the applicant which certifies that all information in the application is complete and true to the best of the applicant's knowledge and that the applicant will comply with applicable state statutes and regulations.

2. Two (2) recent passport-size color photographs of the applicant's face without a hat or sunglasses (computer generated or photocopied photographs are not acceptable); and

3. A check or money order made payable to the Missouri Department of Health for the nonrefundable fee of one hundred dollars ($100).

(3) Training and Experience Requirements for Lead Abatement Supervisor License.

(A) An applicant for a license as a Lead Abatement Supervisor shall complete an OLLA- or EPA-accredited Lead Abatement Supervisor training program (see 19 CSR 30-70.360) and pass the course examination with a score of seventy percent (70%) or more.

(B) An applicant for a license as a Lead Abatement Supervisor shall meet minimum experience requirements for a licensed lead abatement supervisor.

1. The minimum experience requirements for a licensed Lead Abatement Supervisor licensure includes at least one (1) of the following:

A. At least one (1) year of experience as a licensed lead abatement worker (by Missouri, EPA or EPA-approved state);

B. At least two (2) years of experience in asbestos abatement work or as a construction manager or superintendent; or

C. At least two (2) years of experience as a manager for environmental hazard remediation projects.

2. The following documents shall be recognized by OLLA as evidence of meeting the requirements listed in section (3)(B) of this regulation:

A. Resumes, letters of reference, or documentation of work experience, which includes dates (month and year) of employment, employer's name, address and telephone number, and specific job duties, as evidence of meeting the work experience requirements.

B. Course completion certificates issued by the OLLA- or EPA-accredited training program as evidence of meeting the training requirements.

C. A copy of the Lead Abatement Worker certificate or identification badge as evidence of having been a licensed Lead Abatement Worker.

(4) Procedure for Issuance or Denial of Lead Abatement Supervisor License.

(A) OLLA will inform the applicant in writing that the application is either approved, incomplete, or denied.

1. If an application is incomplete, the notice will include a list of additional information or documentation required to complete the application.

A. Within thirty (30) calendar days after the issuance date of the notice of incomplete application, the applicant shall submit to OLLA in writing, the information requested in the written notice.

B. Failure to submit the information requested in the written notice shall result in OLLA's denial of the applicant's application for a lead abatement supervisor license.

C. After receipt of the information requested in the written notice, OLLA will inform the applicant in writing that the application is either approved or denied.

2. When an application for a Lead Abatement Supervisor license is denied, the written notice of denial to the applicant will specify the reasons for the denial. OLLA may deny a Lead Abatement Supervisor license for any one or any combination of the following reasons:

A. Failure to satisfy the experience requirements;

B. Type and amount of training;

C. False or misleading statements in the application;

D. Failure to achieve a passing score on the state examination after three (3) attempts;

E. Failure to submit a complete application.

F. History of citations or violations of existing lead abatement regulations or standards;

G. Violations of 29 CFR part 1926.62 or 29 CFR part 1926.59;

H. Fraud or failure to disclose facts relevant to his or her application;

I. Conviction of a felony under any state or federal law or having entered a plea of guilty or *nolo contendere* in a criminal prosecution under the laws of any state or of the United States;

J. Permitting the duplication or use by another of the individual's training certificate;

K. Other information which may affect the applicant's ability to appropriately supervise lead abatement work;

L. Failure to comply with any state or federal law or regulation, including, but not limited to, any part of sections 701.300 through 701.338, RSMo, or any rules promulgated pursuant to these sections; or

M. Final disciplinary action against a licensee by another state, territory, federal agency or country, whether or not voluntarily agreed to by the licensee, including, but not limited to, the denial of licensure, surrender of the license, allowing the license to expire or lapse, or discontinuing or restricting the license while subject to investigation or while actually under investigation by another state, territory, or federal agency or country.

3. If an application is denied, the applicant may reapply to OLLA by submitting a complete lead occupation license application form and another nonrefundable fee of one hundred dollars ($100).

4. If an applicant is aggrieved by a determination to deny licensure, the applicant may appeal OLLA's denial to the Administrative Hearing Commission as provided by section 621.045, RSMo.

(B) Within one hundred and eighty (180) calendar days after the issuance date of application approval, the applicant shall attain a passing score on the state Lead Abatement Supervisor examination.

1. An applicant cannot sit for the state Lead Abatement Supervisor examination more than three times within one hundred and eighty (180) calendar days from the date of issuance of the notice of an approved application.

2. The applicant's failure to attain a passing score on the state Lead Abatement Supervisor exam within the one hundred eighty (180) day period following the notice of an approved application for a license shall result in OLLA's denial of the applicant's application for license. The individual may reapply to OLLA pursuant to this regulation but only after retaking an OLLA- or EPA-accredited Lead Abatement Supervisor training course.

(C) After the applicant passes the state Lead Abatement Supervisor examination, OLLA will issue a two (2)-year lead abatement supervisor license certificate and photo identification badge.

(D) Restricted licenses may be issued pursuant to an agreement between the applicant or licensee and OLLA.

AUTHORITY: sections 701.301, 701.312 and 701.316, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. A proposed rule covering this same material is published in this issue of the ***Missouri Register****.*

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

EMERGENCY RULE

19 CSR 30-70.170 Application Process and Requirements for the Licensure of Project Designers

PURPOSE: This rule provides the requirements to be licensed as a Project Designer.

*EMERGENCY STATEMENT: This emergency rule is necessary in order for the Missouri Department of Health to continue to administer and enforce standards for lead-bearing substance activities to protect human health and the environment. Such rule has to be in effect in order for the Environmental Protection Agency to review and authorize the Missouri Department of Health to continue to administer and enforce the standards, regulations and other requirements for lead-bearing substance activities. Upon receipt of the Missouri Department of Health's application and certification that the state lead-bearing substance program is at least as protective as the federal program and provides adequate enforcement, the program shall be deemed authorized by the Environmental Protection Agency unless and until the Environmental Protection Agency disapproves the program application or withdraws the program authorization. The application must contain regulations, statutes and other standards regarding the administration and enforcement of this state program. Without emergency promulgation of this rule, as of August 30, 1999, the Environmental Protection Agency will usurp the authority of the state as to the regulation of lead-bearing substance activities. The Missouri Department of Health finds an immediate danger to the public health and welfare and a compelling government interest, which require emergency action. The scope of this rule is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri** and **United States Constitutions**. The Department of Health believes this emergency rule is fair to all interested persons and parties under the circumstances. The emergency rule was filed August 19, 1999, effective August 30, 1999, and expires February 25, 2000.*

(1) Application for a Project Designer License.

(A) An applicant for a Project Designer license must submit a completed application to OLLA prior to consideration for license issuance. All applications for licensure must be received by OLLA at least thirty (30) days prior to the date of the lead abatement project design; provided, however, OLLA may waive the time for the filing of applications as particular circumstances justify. Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The application shall include the following:

1. Completed lead occupation license application form provided by OLLA which shall include:

A. The applicant's full legal name, home address, and telephone number;

B. The name, address, and telephone number of the applicant's current employer;

C. The applicant's social security number;

D. The county or counties in which the applicant is employed;

E. The location where the applicant would like to receive correspondence regarding his or her application or license;

F. The occupation the applicant wishes to be licensed for;

G. Type of training completed, including name of training provider, certificate, identification number and dates of course completion;

H. Licensure for lead occupations in other states, including name of other states, type of license, license expiration date, and license number, and copies of other states' license/certificate;

I. Certification by the EPA, including EPA region number, type of certification, certification expiration date, certification number, and a copy of the EPA certificate;

J. Employment history and/or education which meets the experience and/or education requirements in section (3)(B)1 of this regulation; and

K. Signature of the applicant which certifies that all information in the application is complete and true to the best of the applicant's knowledge and that the applicant will comply with applicable state statutes and regulations.

2. A copy of the OLLA- or EPA-accredited Lead Abatement Supervisor and Project Designer training program completion certificates, and any required refresher completion certificates;

3. Two (2) recent passport-size color photographs of the applicant's face without a hat or sunglasses (computer generated or photocopied photographs are not acceptable);

4. Documentation pursuant to section (3)(B)2 of this regulation as evidence of meeting the education and/or experience requirements for Project Designers; and

5. A check or money order made payable to the Missouri Department of Health for the nonrefundable fee of one hundred dollars ($100).

(C) An applicant for a Project Designer license shall apply to the OLLA within one (1) year of the applicant's successful completion of an OLLA- or EPA-accredited Project Designer training course, as indicated on the certificate of completion. Applicants failing to apply within one (1) year from the date on the training provider completion certificates shall, before making application for license, successfully complete the four (4) hour Project Designer refresher training course accredited by OLLA or the EPA.

(D) Applicants failing to apply within three (3) years of Lead Abatement Supervisor and Project Designer training and who have not successfully completed annual refresher training, shall successfully complete the OLLA- or EPA-accredited Project Designer training course again before submitting application for a Project Designer license.

(2) Application for a Project Designer License Under Reciprocity.

(A) An applicant for a Project Designer license by reciprocity must submit a completed application to OLLA prior to consideration for license issuance. Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The application shall include the following:

1. Completed lead occupation license application form provided by OLLA which shall include:

A. The applicant's full legal name, home address, and telephone number;

B. The name, address, and telephone number of the applicant's current employer;

C. The applicant's social security number;

D. The location where the applicant would like to receive correspondence regarding his or her application or license;

E. The occupation the applicant wishes to be licensed for;

F. Licensure for lead occupations in other states, including name of other states, type of license, license expiration date, and license number, and copies of other states' license/certificate;

G. Certification by the EPA, including EPA region number, type of certification, certification expiration date, certification number, and a copy of the EPA certificate; and

H. Signature of the applicant which certifies that all information in the application is complete and true to the best of the applicant's knowledge and that the applicant will comply with applicable state statutes and regulations.

2. Two (2) recent passport-size color photographs of the applicant's face without a hat or sunglasses (computer generated or photocopied photographs are not acceptable); and

3. A check or money order made payable to the Missouri Department of Health for the nonrefundable fee of one hundred dollars ($100).

(3) Training, Education and Experience Requirements for Project Designer License.

(A) An applicant for a license as a Project Designer shall complete an OLLA- or EPA-accredited Lead Abatement Supervisor training course and an OLLA- or EPA-accredited Project Designer training program (see 19 CSR 30-70.370) and pass both of the course examinations with a score of seventy percent (70%) or more.

(B) An applicant for a license as a project designer shall meet minimum education and/or experience requirements for a licensed project designer.

1. The minimum education and/or experience requirements for a licensed Project Designer include at least one (1) of the following:

A. Bachelor's degree in engineering, architecture, or a related profession, and one (1) year of experience in building construction and design;

B. At least one (1) year of experience as a licensed lead abatement supervisor (by Missouri, EPA or an EPA-approved state) and at least two (2) years experience in building construction and design; or

C. At least four (4) years of experience in building construction and design.

2. The following documents may be recognized by OLLA as evidence of meeting the requirements listed in section (3)(B)1 of this regulation:

A. Official academic transcripts or diploma, as evidence of meeting the education requirements.

B. Resumes, letters of reference, or documentation of work experience, which includes dates (month and year) of employment, employer's name, address and telephone number, and specific job duties, as evidence of meeting the work experience requirements.

C. Course completion certificates issued by the OLLA- or EPA-accredited training program as evidence of meeting the training requirements.

D. A copy of the Lead Abatement Supervisor certificate or identification badge as evidence of having been a licensed Lead Abatement Supervisor.

(4) Procedure for Issuance or Denial of Project Designer License.

(A) OLLA will inform the applicant in writing that the application is either approved, incomplete, or denied.

1. If an application is incomplete, the notice shall include a list of additional information or documentation required to complete the application.

A. Within thirty (30) calendar days after the issuance date of the notice of incomplete application, the applicant shall submit to OLLA in writing, the information requested in the written notice.

B. Failure to submit the information requested in the written notice shall result in OLLA's denial of the applicant's application for a project designer license.

C. After receipt of the information requested in the written notice, OLLA will inform the applicant in writing that the application is either approved or denied.

2. When an application for a Project Designer license is denied, the written notice of denial to the applicant will specify the reasons for the denial. OLLA may deny a Project Designer license for any one or any combination of the following reasons:

A. Failure to satisfy the education and/or experience requirements;

B. Type and amount of training;

C. False or misleading statements in the application;

D. Failure to submit a complete application;

E. History of citations or violations of existing lead abatement regulations or standards;

F. Violations of 29 CFR part 1926.62 or 29 CFR part 1926.59;

G. Fraud or failure to disclose facts relevant to his or her application;

H. Conviction of a felony under any state or federal law or having entered a plea of guilty or *nolo contendere* in a criminal prosecution under the laws of any state or of the United States;

I. Permitting the duplication or use by another of the individual's training certificate;

J. Other information which may affect the applicant's ability to appropriately perform lead abatement project design;

K. Failure to comply with any state or federal law or regulation, including, but not limited to, any part of sections 701.300 through 701.338, RSMo, or any rules promulgated pursuant to these sections; or

L. Final disciplinary action against a licensee by another state, territory, federal agency or country, whether or not voluntarily agreed to by the licensee, including, but not limited to, the denial of licensure, surrender of the license, allowing the license to expire or lapse, or discontinuing or restricting the license while subject to investigation or while actually under investigation by another state, territory, or federal agency or country.

3. If an application is denied, the applicant may reapply to OLLA by submitting a complete lead occupation license application form and another nonrefundable fee of one hundred dollars ($100).

4. If an applicant is aggrieved by a determination to deny licensure, the applicant may appeal OLLA's denial to the Administrative Hearing Commission as provided by section 621.045, RSMo.

(B) After notice of complete application, OLLA will issue a two (2)-year license certificate and photo identification badge.

(C) Restricted licenses may be issued pursuant to an agreement between the applicant or licensee and OLLA.

AUTHORITY: sections 701.301, 701.312 and 701.316, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. A proposed rule covering this same material is published in this issue of the ***Missouri Register****.*

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

EMERGENCY RULE

19 CSR 30-70.180 Application Process and Licensure Renewal Requirements for Lead Abatement Contractors

PURPOSE: This rule provides the requirements to be licensed and renewal requirements as a Lead Abatement Contractor.

EMERGENCY STATEMENT: This emergency rule is necessary in order for the Missouri Department of Health to continue to

administer and enforce standards for lead-bearing substance activities to protect human health and the environment. Such rule has to be in effect in order for the Environmental Protection Agency to review and authorize the Missouri Department of Health to continue to administer and enforce the standards, regulations and other requirements for lead-bearing substance activities. Upon receipt of the Missouri Department of Health's application and certification that the state lead-bearing substance program is at least as protective as the federal program and provides adequate enforcement, the program shall be deemed authorized by the Environmental Protection Agency unless and until the Environmental Protection Agency disapproves the program application or withdraws the program authorization. The application must contain regulations, statutes and other standards regarding the administration and enforcement of this state program. Without emergency promulgation of this rule, as of August 30, 1999, the Environmental Protection Agency will usurp the authority of the state as to the regulation of lead-bearing substance activities. The Missouri Department of Health finds an immediate danger to the public health and welfare and a compelling government interest, which require emergency action. The scope of this rule is limited to the circumstances creating the emergency and complies with the protections extended in the ***Missouri*** *and* ***United States Constitutions****. The Department of Health believes this emergency rule is fair to all interested persons and parties under the circumstances. The emergency rule was filed August 19, 1999, effective August 30, 1999, and expires February 25, 2000.*

(1) Application for a Lead Abatement Contractor License.

(A) An applicant for a Lead Abatement Contractor license must submit a completed application to OLLA prior to consideration for license issuance. All applications for licensure must be received by OLLA at least thirty (30) days prior to the date of the lead abatement activity; provided, however, OLLA may waive the time for the filing of applications as particular circumstances justify. Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The application shall include:

1. A completed lead abatement contractor form provided by OLLA which shall include:

A. The applicant's name, address and telephone number;

B. If the applicant is a sole proprietorship, the applicant's social security number;

C. The county or counties in which the applicant is located;

D. Lead-bearing substance activities the applicant will be conducting (i.e., lead inspection, risk assessments, lead abatement projects, and/or project design);

E. A certification that the Lead Abatement Contractor shall only employ appropriately Missouri licensed individuals to conduct lead-bearing substance activities; and

F. A certification that the Lead Abatement Contractor and its employees shall follow the Missouri Work Practice Standards for Lead-Bearing Substances Activities in 19 CSR 30-70.600 through 19 CSR 30-70.650.

2. If the applicant is a corporation, a copy of its registration with the Missouri Secretary of State's Office. Every corporation desiring a license as a lead abatement contractor under sections 701.300 through 701.338, RSMo, must be registered and in good standing with the Missouri Secretary of State's Office;

3. Every corporation desiring a license which conducts business under a fictitious name must have the fictitious name registered with the Missouri Secretary of State's Office, and must submit a copy of its fictitious name registration with its application to OLLA; and

4. A check or money order made payable to the Missouri Department of Health for the nonrefundable fee of two hundred and fifty dollars ($250); provided, however, that lead abatement contractors who are a state, federally recognized Indian tribe, local government or nonprofit organization shall be exempt from payment of such fee.

(2) Application for a Lead Abatement Contractor License Under Reciprocity.

(A) An applicant for a Lead Abatement Contractor license by reciprocity shall apply to OLLA. Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The application shall include:

1. A completed lead abatement contractor form provided by OLLA which shall include:

A. The applicant's name, address and telephone number;

B. If the applicant is a sole proprietorship, the applicant's social security number;

C. The county or counties in which the applicant is located;

D. Lead-bearing substance activities the applicant will be conducting (i.e., lead inspection, risk assessments, lead abatement projects, and/or project design);

E. A certification that the Lead Abatement Contractor shall only employ appropriately Missouri licensed individuals to conduct lead-bearing substance activities; and

F. A certification that the Lead Abatement Contractor and its employees shall comply with the Work Practice Standards 19 CSR 30-70.600 through 19 CSR 30-70.650.

2. A check or money order made payable to the Missouri Department of Health for the nonrefundable fee of two hundred and fifty dollars ($250); provided, however, that lead abatement contractors who are a state, federally recognized Indian tribe, local government or nonprofit organization shall be exempt from payment of such fee.

(3) Procedure for Issuance or Denial of a Lead Abatement Contractor License.

(A) OLLA will inform the applicant in writing that the application is either approved, incomplete, or denied.

1. If an application is incomplete, the notice will include a list of additional information or documentation required to complete the application.

A. Within thirty (30) calendar days after the issuance date of the notice of incomplete application, the applicant shall submit to OLLA in writing, the information requested in the written notice.

B. Failure to submit the information requested in the written notice shall result in OLLA's denial of the applicant's application for a lead abatement supervisor license.

C. After receipt of the information requested in the written notice, OLLA will inform the applicant in writing that the application is either approved or denied.

2. When an application for a Lead Abatement Contractor license is denied, the written notice of denial to the applicant will specify the reasons for the denial. OLLA may deny a Lead Abatement Contractor license for any one or any combination of the following reasons:

A. History of citations or violations of existing local, state and federal lead abatement or other environmental regulations or standards;

B. Past felony convictions under any state or federal law designed to protect human health or the environment. Any plea of guilty or *nolo contendere* shall be considered a conviction for the purposes of this subsection;

C. False or misleading statements in the application;

D. Failure to submit a complete application;

E. Other information which may affect the applicant's ability to appropriately perform lead-bearing substance activities;

F. Violations of 29 CFR part 1926.62 or 29 CFR part 1926.59;

G. Fraud or failure to disclose facts relevant the lead abatement contractor application;

H. Failure to comply with any state or federal law or regulation, including, but not limited to, any part of sections 701.300 through 701.338, RSMo, or any rules promulgated pursuant to these sections; or

I. Final disciplinary action against a licensee by another state, territory, federal agency or country, whether or not voluntarily agreed to by the licensee, including, but not limited to, the denial of licensure, surrender of the license, allowing the license to expire or lapse, or discontinuing or restricting the license while subject to investigation or while actually under investigation by another state, territory, or federal agency or country.

3. When an application is denied, the applicant may reapply to OLLA by submitting a complete lead abatement contractor application form along with the applicable fee.

4. If an applicant is aggrieved by a determination to deny licensure, the applicant may appeal OLLA's denial to the Administrative Hearing Commission as provided by section 621.045, RSMo.

(B) After notice of complete application, OLLA will issue a two (2)-year license Lead Abatement Contractor license.

(C) Restricted licenses may be issued pursuant to an agreement between the applicant or licensee and OLLA.

(4) Change of Ownership. If a licensed Lead Abatement Contractor changes ownership, the new owner shall notify OLLA in writing no later than thirty (30) calendar days prior to the change of ownership becoming effective. The notification shall include a new Lead Abatement Contractor license application, the appropriate fee, and the date that the change of ownership will become effective. The new Lead Abatement Contractor application shall be processed in the same manner pursuant to 19 CSR 30-70.180(3). The current Lead Abatement Contractor's license shall expire on the effective date set forth in the notification of the change of ownership.

(5) Renewal Application for Lead Abatement Contractor License. An application for Lead Abatement Contractor license renewal shall be mailed at least sixty (60) days prior to the expiration date on the license accompanied by a nonrefundable renewal fee of two hundred and fifty dollars ($250) (provided, however, that lead abatement contractors who are a state, federally recognized Indian tribe, local government or nonprofit organization shall be exempt from payment of such fee) with a completed application form to the Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102. If the licensee fails to apply at least sixty (60) days prior to the expiration date on the license, OLLA cannot guarantee that the license will be renewed before the end of the licensing period.

AUTHORITY: sections 701.301, 701.312 and 701.316, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. A proposed rule covering this same material is published in this issue of the ***Missouri Register****.*

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

EMERGENCY RULE

19 CSR 30-70.190 Renewal of Lead Occupation Licenses

PURPOSE: This rule provides the requirements for renewal licensure of Lead Inspector, Risk Assessor, Lead Abatement Worker, Lead Abatement Supervisor and Project Designer.

EMERGENCY STATEMENT: This emergency rule is necessary in order for the Missouri Department of Health to continue to administer and enforce standards for lead-bearing substance activities to protect human health and the environment. Such rule has to be in effect in order for the Environmental Protection Agency to review and authorize the Missouri Department of Health to continue to administer and enforce the standards, regulations and other requirements for lead-bearing substance activities. Upon receipt of the Missouri Department of Health's application and certification that the state lead-bearing substance program is at least as protective as the federal program and provides adequate enforcement, the program shall be deemed authorized by the Environmental Protection Agency unless and until the Environmental Protection Agency disapproves the program application or withdraws the program authorization. The application must contain regulations, statutes and other standards regarding the administration and enforcement of this state program. Without emergency promulgation of this rule, as of August 30, 1999, the Environmental Protection Agency will usurp the authority of the state as to the regulation of lead-bearing substance activities. The Missouri Department of Health finds an immediate danger to the public health and welfare and a compelling government interest, which require emergency action. The scope of this rule is limited to the circumstances creating the emergency and complies with the protections extended in the ***Missouri*** *and* ***United States Constitutions****. The Department of Health believes this emergency rule is fair to all interested persons and parties under the circumstances. The emergency rule was filed August 19, 1999, effective August 30, 1999, and expires February 25, 2000.*

(1) Renewal Application for Lead Inspector, Risk Assessor, Lead Abatement Worker, Lead Abatement Supervisor and Project Designer Licenses.

(A) A completed application for renewal of license, including required supporting documentation, shall be submitted to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570, at least sixty (60) days prior to the license expiration date indicated on the license. Failure of the licensee to submit an application at least sixty (60) days prior to the current license's expiration date may result in the license not being renewed before the current license expires.

(B) The licensee applying for license renewal shall complete the eight (8) hour OLLA- or EPA-accredited refresher training course for the appropriate occupation.

(C) The renewal application shall include the following:

1. A completed lead occupation renewal license application form provided by OLLA which shall include:

A. The licensee's full legal name, home address, and telephone number;

B. The name, address, and telephone number of the licensee's current employer;

C. The licensee's social security number;

D. The county or counties in which the licensee is employed;

E. The location where the licensee would like to receive correspondence regarding his or her renewal application or license;

F. The license occupation the licensee wishes to have renewed;

G. Type of refresher training completed, including name of training provider, certificate identification number and dates of course completion; and

H. Signature of the licensee which certifies that all information in the application is complete and true to the best of the

licensee's knowledge and that the licensee will comply with applicable state statutes and regulations.

2. A copy of the OLLA- or EPA-accredited refresher training course completion certificate for the appropriate occupation;

3. Two (2) recent passport-size color photographs of the licensee's face without a hat or sunglasses (computer generated or photocopied photographs are not acceptable); and

4. A check or money order made payable to the Missouri Department of Health for the nonrefundable fee of fifty dollars ($50).

(2) Procedure for Issuance or Denial of a Renewal License.

(A) OLLA will inform the licensee in writing that the renewal application is either approved, incomplete or denied.

1. If a renewal application is incomplete, the notice will include a list of additional information or documentation required to complete the renewal application.

A. Within thirty (30) calendar days after the issuance date of the notice of incomplete application, the licensee shall submit to OLLA the information requested in the written notice.

B. Failure to submit the information requested in the written notice to OLLA in writing shall result in OLLA's denial of the licensee's renewal application for the appropriate occupation.

C. After receipt of the information requested in the written notice, OLLA will inform the licensee in writing that the application is either approved or denied.

2. When a renewal application for a lead license is denied, the written notice of denial to the applicant will specify the reasons for the denial. OLLA may deny a renewal license for any one or any combination of the following reasons:

A. Type and amount of training;

B. False or misleading statements in the application;

C. Failure to submit a complete application;

D. History of citations or violations of existing lead abatement regulations or standards;

E. Violations of 29 CFR part 1926.62 or 29 CFR part 1926.59;

F. Fraud or failure to disclose facts relevant to his or her application;

G. Conviction of a felony under any state or federal law or having entered a plea of guilty or *nolo contendere* in a criminal prosecution under the laws of any state or of the United States;

H. Permitting the duplication or use by another of the individual's training certificate;

I. Other information which may affect the licensee's ability to appropriately perform lead-bearing substance activities;

J. Failure to comply with any state or federal law or regulation, including, but not limited to, any part of sections 701.300 through 701.338, RSMo, or any rules promulgated pursuant to these sections; or

K. Final disciplinary action against a licensee by another state, territory, federal agency or country, whether or not voluntarily agreed to by the licensee, including, but not limited to, the denial of licensure, surrender of the license, allowing the license to expire or lapse, or discontinuing or restricting the license while subject to investigation or while actually under investigation by another state, territory, or federal agency or country.

3. If a renewal application is denied, the applicant may reapply to OLLA by submitting a completed lead occupation license renewal application form and another nonrefundable renewal fee of fifty dollars ($50).

4. If a licensee is aggrieved by a determination to deny renewal licensure, the applicant may appeal OLLA's denial to the Administrative Hearing Commission as provided by section 621.045, RSMo.

(B) After notice of complete renewal application, OLLA will issue a two (2) year license certificate and photo identification badge.

(C) Restricted licenses may issued pursuant to an agreement between the applicant or licensee and OLLA.

AUTHORITY: sections 701.301, 701.312 and 701.316, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. A proposed rule covering this same material is published in this issue of the ***Missouri Register****.*

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

EMERGENCY RULE

19 CSR 30-70.195 Application Process and Requirements for Re-application after License Expiration

PURPOSE: This rule provides the requirements for re-application of a Lead Inspector, Risk Assessor, Lead Abatement Worker, Lead Abatement Supervisor and Project Designer after a license has expired.

EMERGENCY STATEMENT: This emergency rule is necessary in order for the Missouri Department of Health to continue to administer and enforce standards for lead-bearing substance activities to protect human health and the environment. Such rule has to be in effect in order for the Environmental Protection Agency to review and authorize the Missouri Department of Health to continue to administer and enforce the standards, regulations and other requirements for lead-bearing substance activities. Upon receipt of the Missouri Department of Health's application and certification that the state lead-bearing substance program is at least as protective as the federal program and provides adequate enforcement, the program shall be deemed authorized by the Environmental Protection Agency unless and until the Environmental Protection Agency disapproves the program application or withdraws the program authorization. The application must contain regulations, statutes and other standards regarding the administration and enforcement of this state program. Without emergency promulgation of this rule, as of August 30, 1999, the Environmental Protection Agency will usurp the authority of the state as to the regulation of lead-bearing substance activities. The Missouri Department of Health finds an immediate danger to the public health and welfare and a compelling government interest, which require emergency action. The scope of this rule is limited to the circumstances creating the emergency and complies with the protections extended in the ***Missouri*** *and* ***United States Constitutions****. The Department of Health believes this emergency rule is fair to all interested persons and parties under the circumstances. The emergency rule was filed August 19, 1999, effective August 30, 1999, and expires February 25, 2000.*

(A) Unless sooner renewed or revoked, a license shall expire within two (2) years from its effective date indicated on the current license. If a licensee allows the license to expire before renewal, the licensee must reapply to OLLA. Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The application shall include the following:

1. A completed lead occupation license application form provided by OLLA which shall include:

A. The applicant's full legal name, home address, and telephone number;

B. The name, address, and telephone number of the applicant's current employer;

C. The applicant's social security number;

D. The county or counties in which the applicant is employed;

E. The location where the applicant would like to receive correspondence regarding his or her application or license;

F. The license occupation the applicant wishes to be licensed for;

G. Type of training completed, including name of training provider, certificate identification number and dates of course completion;

H. Licensure for lead occupations in other states including, name of other states, type of license, license expiration date, and license number, and copies of other states' license/certificate;

I. Certification by the EPA, including EPA region number, type of certification, certification expiration date, certification number, and a copy of the EPA certificate; and

J. Signature of the applicant which certifies that all information in the application is complete and true to the best of the applicant's knowledge and that the applicant will comply with applicable state statutes and regulations.

2. A copy of the OLLA- or EPA-accredited refresher (and/or initial, if applicable—see 19 CSR 30-70.195(D)) training course completion certificate for the appropriate occupation;

3. Two (2) recent passport-size color photographs of the applicant's face without a hat or sunglasses (computer generated or photocopied photographs are not acceptable); and

4. A check or money order made payable to the Missouri Department of Health for the nonrefundable fee of one hundred dollars ($100).

(C) An applicant re-applying for a lead occupation license within one (1) year from the license expiration date shall complete the appropriate eight (8) hour refresher training course accredited by OLLA or the EPA.

(D) Applicants failing to re-apply within three (3) years of the license expiration date and who have not successfully completed annual refresher training, shall successfully complete the appropriate OLLA- or EPA-accredited initial training course again.

(E) Any licensed Lead Inspector, Risk Assessor, or Lead Abatement Supervisor, that allows his or her license to expire before renewal shall re-take the state lead examination for the appropriate occupation.

(F) OLLA will use the procedure for issuance or denial of a license pursuant to 19 CSR 30-70.130(4), 19 CSR 30-70.140(3), 19 CSR 30-70.150(4), 19 CSR 30-70.160(4), 19 CSR 30-70.170(4) as applicable.

AUTHORITY: sections 701.301, 701.312 and 701.316, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. A proposed rule covering this same material is published in this issue of the ***Missouri Register****.*

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

EMERGENCY RULE

19 CSR 30-70.200 Application Process and Requirements for the Licensure of Risk Assessors Who Possessed a Valid Missouri Lead Inspector License on August 28, 1998

PURPOSE: This rule provides the requirements for a temporary Risk Assessor license.

EMERGENCY STATEMENT: This emergency rule is necessary in order for the Missouri Department of Health to continue to administer and enforce standards for lead-bearing substance activities to protect human health and the environment. Such rule has to be in effect in order for the Environmental Protection Agency to review and authorize the Missouri Department of Health to continue to administer and enforce the standards, regulations and other requirements for lead-bearing substance activities. Upon receipt of the Missouri Department of Health's application and certification that the state lead-bearing substance program is at least as protective as the federal program and provides adequate enforcement, the program shall be deemed authorized by the Environmental Protection Agency unless and until the Environmental Protection Agency disapproves the program application or withdraws the program authorization. The application must contain regulations, statutes and other standards regarding the administration and enforcement of this state program. Without emergency promulgation of this rule, as of August 30, 1999, the Environmental Protection Agency will usurp the authority of the state as to the regulation of lead-bearing substance activities. The Missouri Department of Health finds an immediate danger to the public health and welfare and a compelling government interest, which require emergency action. The scope of this rule is limited to the circumstances creating the emergency and complies with the protections extended in the ***Missouri*** *and* ***United States Constitutions****. The Department of Health believes this emergency rule is fair to all interested persons and parties under the circumstances. The emergency rule was filed August 19, 1999, effective August 30, 1999, and expires February 25, 2000.*

(1) Only individuals possessing a valid Missouri Lead Inspector license on August 28, 1998, may apply for a Risk Assessor license pursuant to this rule. All other Risk Assessor applicants must apply pursuant to 19 CSR 30-70.140. No person may apply for a Risk Assessor License pursuant to this rule after December 1, 2000.

(2) Completed applications shall be mailed to the Missouri Department of Health, P.O. Box 570, Jefferson City, MO 65102-0570.

(3) The application shall include the following:

(A) A completed lead occupation license application form provided by OLLA which shall include:

1. The applicant's full legal name, home address, and telephone number;

2. The name, address, and telephone number of the applicant's current employer;

3. The applicant's social security number;

4. The county or counties in which the applicant is employed;

5. The location where the applicant would like to receive correspondence regarding his or her application or license;

6. Name of training provider, certificate identification number and dates of course completion; and

7. Signature of the applicant which certifies that all information in the application is complete and true to the best of the applicant's knowledge and that the applicant will comply with applicable state statutes and regulations.

(B) A copy of the OLLA- or EPA-accredited Risk Assessor Refresher training course completion certificate; and

(C) Two (2) recent passport-size color photographs of the applicant's face without a hat or sunglasses (computer generated or photocopied photographs are not acceptable).

(4) An applicant for a temporary Risk Assessor license shall apply to OLLA within one (1) year from the date on the completion certificate from an OLLA- or EPA-accredited Risk Assessor Refresher

training provider. Applicants failing to apply within these restrictions shall apply pursuant to 19 CSR 30-70.140.

(5) Training Requirements for a Temporary Risk Assessor License. An applicant for a license as a Risk Assessor shall complete an OLLA- or EPA-accredited Risk Assessor Refresher training course (see 19 CSR 30-70.380) and pass the course examination with a score of seventy percent (70%) or more.

(6) Procedure for Issuance or Denial of a Temporary Risk Assessor License.

(A) OLLA will inform the applicant in writing that the application is either approved, incomplete, or denied.

1. If an application is incomplete, the notice will include a list of additional information or documentation required to complete the application.

A. Within thirty (30) calendar days after the issuance date of the notice of incomplete application, the applicant shall submit to OLLA in writing the information requested in the written notice.

B. Failure to submit the information requested in the written notice within thirty (30) calendar days shall result in OLLA's denial of the applicant's application for a Risk Assessor license.

C. After receipt of the information requested in the written notice, OLLA will inform the applicant in writing that the application is either approved or denied.

2. When an application for a Risk Assessor license is denied, the written notice of denial to the applicant will specify the reasons for the denial. OLLA may deny a temporary Risk Assessor license for any one or any combination of the following reasons:

A. Type and amount of training;

B. False or misleading statements in the application;

C. Failure to pass the state examination after two (2) attempts;

D. Failure to submit a complete application;

E. History of citations or violations of existing lead abatement regulations or standards;

F. Violations of 29 CFR part 1926.62 or 29 CFR part 1926.59;

G. Fraud or failure to disclose facts relevant to his or her application;

H. Conviction of a felony under any state or federal law or having entered a plea of guilty or *nolo contendere* in a criminal prosecution under the laws of any state or of the United States;

I. Permitting the duplication or use by another of the individual's training certificate;

J. Other information which may affect the applicant's ability to appropriately perform lead-bearing substance activities;

K. Failure to comply with any state or federal law or regulation, including, but not limited to, any part of sections 701.300 through 701.338, RSMo, or any rules promulgated pursuant to these sections; or

L. Final disciplinary action against a licensee by another state, territory, federal agency or country, whether or not voluntarily agreed to by the licensee, including, but not limited to, the denial of licensure, surrender of the license, allowing the license to expire or lapse, or discontinuing or restricting the license while subject to investigation or while actually under investigation by another state, territory, or federal agency or country.

3. If an application is denied, the applicant may reapply to OLLA for a Risk Assessor license, by submitting a complete lead occupation license application form pursuant to 19 CSR 30-70.140.

4. If an applicant is aggrieved by a determination to deny licensure, the applicant may appeal OLLA's denial to the Administrative Hearing Commission as provided by section 621.045, RSMo.

(B) Within thirty (30) days after the issuance date of application approval, the applicant shall attain a passing score on the state Risk Assessor examination.

1. An applicant cannot sit for the state examination more than twice within thirty (30) calendar days after the issuance date of the notice of an approved application.

2. If an applicant fails to pass the state examination on the second attempt, the applicant's application for a Risk Assessor is considered denied. The individual may reapply to OLLA pursuant to 19 CSR 30-70.140 but only after retaking the OLLA- or EPA-accredited Risk Assessor training course.

(C) After the applicant passes the state Risk Assessor examination, OLLA will issue a Risk Assessor license certificate and photo identification badge. This license will expire on the same date as the Lead Inspector license used to fulfill the requirement of section (1) of this regulation.

AUTHORITY: sections 701.301 and 701.312, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. A proposed rule covering this same material is published in this issue of the ***Missouri Register****.*

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

EMERGENCY RULE

19 CSR 30-70.310 Definitions and Abbreviations for the Accreditation of Training Providers

PURPOSE: This rule provides definitions and abbreviations to be used in the interpretation and enforcement of 19 CSR 30-70.310 through 19 CSR 30-70.400.

EMERGENCY STATEMENT: This emergency rule is necessary in order for the Missouri Department of Health to continue to administer and enforce standards for lead-bearing substance activities to protect human health and the environment. Such rule has to be in effect in order for the Environmental Protection Agency to review and authorize the Missouri Department of Health to continue to administer and enforce the standards, regulations and other requirements for lead-bearing substance activities. Upon receipt of the Missouri Department of Health's application and certification that the state lead-bearing substance program is at least as protective as the federal program and provides adequate enforcement, the program shall be deemed authorized by the Environmental Protection Agency unless and until the Environmental Protection Agency disapproves the program application or withdraws the program authorization. The application must contain regulations, statutes and other standards regarding the administration and enforcement of this state program. Without emergency promulgation of this rule, as of August 30, 1999, the Environmental Protection Agency will usurp the authority of the state as to the regulation of lead-bearing substance activities. The Missouri Department of Health finds an immediate danger to the public health and welfare and a compelling government interest, which require emergency action. The scope of this rule is limited to the circumstances creating the emergency and complies with the protections extended in the ***Missouri*** *and* ***United States Constitutions****. The Department of Health believes this emergency rule is fair to all interested persons and parties under the circumstances. The emergency rule was filed August 19, 1999, effective August 30, 1999, and expires February 25, 2000.*

(1) Accreditation, is approval by OLLA of a training provider for a training course to train individuals for lead-bearing substance activities.

(2) Audit, is the monitoring by OLLA of a training provider for a training course to ensure compliance with state statutes and regulations.

(3) Classroom training, is training devoted to lecture, learning activities, small group activities, demonstrations, and/or evaluations.

(4) Course Agenda, is an outline of the key topics to be covered during a training course, including the time allotted to teach each topic.

(5) Course Exam Blueprint, is written documentation identifying the proportion of course exam questions devoted to each major topic in the course curriculum.

(6) EPA, is the United States Environmental Protection Agency.

(7) Guest Instructor, is an individual designated by the training manager to provide instruction specific to the lecture, hands-on training, or work practice components of a course.

(8) Hands-On Skills Assessment, is an evaluation of the effectiveness of the hands-on training which shall test the ability of the trainees to demonstrate satisfactory performance of work practices and procedures as well as any other skills demonstrated in the course.

(9) Hands-On Training, is training which involves the actual practice of a procedure and/or use of equipment.

(10) Large-scale abatement project, is a lead abatement project consisting of ten (10) or more dwellings.

(11) Occupation, is one of the specific types or categories of lead-bearing substance activities identified in these regulations for which individuals may receive training from accredited training providers, including, but not limited to, lead inspector, risk assessor, lead abatement worker, lead abatement supervisor and/or project designer.

(12) OLLA, is the Missouri Department of Health Office of Lead Licensing and Accreditation.

(13) Oral Exam, is equivalent to the written exam in content, but is read to the student by the principal instructor. The student is required to provide his or her answers to the exam in writing.

(14) Principal instructor, is any qualified individual designated by the training manager that has the primary responsibility for organizing and teaching a particular course.

(15) Re-Accreditation, is the renewal of accreditation of a training provider for a training course subsequent to initial accreditation expiration.

(16) Reciprocity, an agreement between OLLA and other states who have similar accreditation provisions.

(17) Refresher course, is the course of instruction established by these regulations which must be periodically completed to obtain or maintain an individual's licensure in a single occupation.

(18) Training Course, is the course of instruction established by these regulations to prepare an individual for licensure in a single occupation.

(19) Training Provider, is any person or entity providing training courses for the purpose of state licensure or licensure renewal in an occupation.

(20) Training curriculum, is an established set of course topics for instruction by an accredited training provider for a particular occupation designed to provide specialized knowledge and skills.

(21) Training hour, is at least 50 minutes of actual instruction, including but not limited to time devoted to lecture, learning activities, small group activities, demonstrations, evaluations, and/or hands-on training. A Training hour shall not include a break.

(22) Training manager, is any individual responsible for administering the training courses and monitoring the performance of principal instructors and guest instructors.

AUTHORITY: sections 701.301 and 701.314, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. A proposed rule covering this same material is published in this issue of the ***Missouri Register****.*

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

EMERGENCY RULE

19 CSR 30-70.320 Accreditation of Training Providers for Training Courses

PURPOSE: This rule provides the procedures and requirements for the Accreditation of Training providers for training courses.

EMERGENCY STATEMENT: This emergency rule is necessary in order for the Missouri Department of Health to continue to administer and enforce standards for lead-bearing substance activities to protect human health and the environment. Such rule has to be in effect in order for the Environmental Protection Agency to review and authorize the Missouri Department of Health to continue to administer and enforce the standards, regulations and other requirements for lead-bearing substance activities. Upon receipt of the Missouri Department of Health's application and certification that the state lead-bearing substance program is at least as protective as the federal program and provides adequate enforcement, the program shall be deemed authorized by the Environmental Protection Agency unless and until the Environmental Protection Agency disapproves the program application or withdraws the program authorization. The application must contain regulations, statutes and other standards regarding the administration and enforcement of this state program. Without emergency promulgation of this rule, as of August 30, 1999, the Environmental Protection Agency will usurp the authority of the state as to the regulation of lead-bearing substance activities. The Missouri Department of Health finds an immediate danger to the public health and welfare and a compelling government interest, which require emergency action. The scope of this rule is limited to the circumstances creating the emergency and complies with the protections extended in the ***Missouri*** *and* ***United States Constitutions****. The Department of Health believes this emergency rule is fair to all interested persons and parties under the circum-*

stances. The emergency rule was filed August 19, 1999, effective August 30, 1999, and expires February 25, 2000.

(1) Reciprocity. OLLA may issue an accreditation certificate to any person or entity that has made application, paid the necessary fees, and provided proof of accreditation from another state, provided that OLLA has entered into a reciprocity agreement with that state.

(2) Good Standing. Every corporation desiring accreditation of the lead inspector, risk assessor, lead abatement worker, lead abatement supervisor and/or project designer training course under sections 701.300 through 701.338, RSMo, must be registered and in good standing with the Missouri Secretary of State's Office.

(3) Application for Accreditation of a Training Provider for a Training Course.

(A) Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The application shall include the following:

1. Completed training provider course accreditation application form provided by OLLA which shall include:

A. The training provider's name, address, and telephone number;

B. The name and date of birth of the training manager;

C. The name and date of birth of the principal instructor for each course;

D. A list of locations at which training will take place;

E. A list of courses for which the training provider is applying for accreditation; and

F. A statement signed by the training manager certifying that the information provided in the application for accreditation, and any additional information included with the application, is true and accurate to the best of the training manager's knowledge and understanding, that the training provider will comply with 19 CSR 30-70.310 through 19 CSR 30-70.400, and that the training provider will only conduct lead training in those occupations in which the training provider has received accreditation.

2. A copy of the student and instructor manuals;

3. Course agenda;

4. Course examination blueprint;

5. A copy of the quality control plan as described in section (6)(H) of this regulation;

6. A copy of a sample course certificate as described in section (6)(G) of this regulation;

7. A description of the facilities and equipment to be used for lecture and hands-on training;

8. A description of the activities and procedures that will be used for conducting the hands-on skills assessment for each course;

9. A check or money order for the nonrefundable fee of one thousand dollars ($1000) per course made payable to the Missouri Department of Health; provided, however, that training providers who are a state, federally recognized Indian tribe, local government or nonprofit organization shall be exempt from payment of such fee; and

10. Supporting documentation of the Training Manager's and Principal Instructor's qualifications.

(4) Application for Accreditation of a Training Provider for a Training Course Under Reciprocity.

(A) Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The application shall include the following:

1. Completed training provider course accreditation application form provided by OLLA which shall include:

A. The training provider's name, address, and telephone number;

B. The name and date of birth of the training manager;

C. The name and date of birth of the principal instructor for each course;

D. A list of locations at which training will take place;

E. A list of courses for which the training provider is applying for accreditation; and

F. A statement signed by the training manager certifying that the information provided in the application for accreditation, and any additional information included with the application, is true and accurate to the best of the training manager's knowledge and understanding, that the training provider will comply with 19 CSR 30-70.310 through 19 CSR 30-70.400, and that the training provider will only conduct lead training in those occupations in which the training provider has received accreditation.

2. Course agenda;

3. Course examination blueprint;

4. A copy of the quality control plan as described in section (6)(H) of this regulation;

5. A copy of a sample course certificate as described in section (6)(G) of this regulation;

6. A description of the facilities and equipment to be used for lecture and hands-on training;

7. A description of the activities and procedures that will be used for conducting the hands-on skills assessment for each course;

8. A check or money order for the nonrefundable fee of one thousand dollars ($1000) per course made payable to the Missouri Department of Health; provided, however, that training providers who are a state, federally recognized Indian tribe, local government or nonprofit organization shall be exempt from payment of such fee; and

9. Supporting documentation of the Training Manager's and Principal Instructor's qualifications.

(5) Procedure for Issuance or Denial of a Training Provider for a Training Course.

(A) OLLA will inform the applicant in writing that the application is either approved, incomplete, or denied.

1. If an application is incomplete, the notice shall include a list of additional information or documentation required to complete the application.

A. Within thirty (30) calendar days after the issuance date of the notice of incomplete application, the applicant shall submit to OLLA in writing, the information requested in the written notice.

B. Failure to submit the information requested in the written notice within thirty (30) calendar days shall result in denial of the application for a training course accreditation.

C. After the information in the written notice is received, OLLA will inform the applicant in writing that the application is either approved or denied.

2. If an application is approved, OLLA shall issue a two (2)-year accreditation certificate.

3. If an application for training course accreditation is denied, OLLA shall state in the notice of denial to the applicant the specific reasons for the denial.

A. OLLA may deny training course accreditation for any one or any combination of the following reasons:

(I) Failure of the training manager and/or principal instructor to satisfy the experience requirements;

(II) History of citations or violations of existing local, state and federal regulations or standards;

(III) Persons listed in the application have been convicted of a felony under any state or federal law or have entered a plea

of guilty or *nolo contendere* in a criminal prosecution under the laws of any state or of the United States;

(IV) False or misleading statements in the application;

(V) False records, instructor qualifications, or other accreditation-related information or documentation;

(VI) Failure of the applicant to submit a complete application; or

(VII) Final disciplinary action against a training provider by another state, territory, federal agency or country, whether or not voluntarily agreed to by the training provider, including, but not limited to, the denial of accreditation, surrender of the accreditation, allowing the accreditation to expire or lapse, or discontinuing or restricting the accreditation while subject to investigation or while actually under investigation by another state, territory, or federal agency or country.

(B) If an application is denied, the applicant may reapply for accreditation at any time.

(C) If an applicant is aggrieved by a determination to deny accreditation, the applicant may request a hearing by the department according to Chapter 536 of the Administrative Procedures Act.

(6) Requirements for Accreditation of a Training Provider for a Training Course. For a training provider to maintain accreditation from OLLA to offer a training course, the training provider shall meet the following requirements:

(A) Training Manager. The training provider shall employ a training manager who meets the requirements in subsection (7)(A) of this regulation. The training manager shall be responsible for ensuring that the accredited training provider complies at all times with all of the requirements in these regulations. The training manager may designate guest instructors as needed to provide instruction specific to the lecture, hands-on activities, or work practice components of a course.

(B) Principal Instructor. The training provider, in coordination with the training manager, shall designate a qualified principal instructor who meets the requirements in subsection (8)(A) of this regulation. The Principal instructor shall be responsible for the organization of the course and oversight of the teaching of all course materials.

(C) The training provider shall meet the requirements set forth in sections (D) through (N) of this regulation for each course contained in the application for accreditation of a training provider for a training course.

(D) Delivery of Course. The training provider shall ensure the availability of, and provide adequate facilities for, the delivery of the lecture, course exam, hands-on training, and assessment activities. This includes providing training equipment that reflects current work practice standards set forth in 19 CSR 30-70.600 through 19 CSR 30-70.650 and maintaining or updating the course materials, equipment and facilities as needed.

(E) Course Exam. For each course offered, the training provider shall conduct a monitored, written course exam at the completion of each course. An oral exam may be administered in lieu of a written course exam for the Lead Abatement Worker course only. If an oral examination is administered, the student is required to provide his or her answers to the exam in writing.

1. The course exam shall evaluate the trainee's competency and proficiency.

2. All individuals must pass the course exam in order to successfully complete any course and receive a course completion certificate. Seventy percent (70%) shall be considered the passing score on the course exam.

3. The training provider and the training manager are responsible for maintaining the validity and integrity of the course exam to ensure that it accurately evaluates the trainees' knowledge and retention of the course topics.

(F) Hands-On Skills Assessment. For each course offered, except for project designers, the training provider shall conduct a hands-on skills assessment. The training manager is responsible for maintaining the validity and integrity of the hands-on skills assessment to ensure that it accurately evaluates the trainees' performance of the work practices and procedures associated with the course topics.

(G) Course Completion Certificate. The training provider shall issue unique course completion certificates to each individual who passes the training course. The course completion certificate shall include:

1. The name, a unique identification number, and address of the individual.

2. The name of the particular course that the individual completed.

3. Dates of course completion/exam passage.

4. The name, address and telephone number of the training provider.

(H) Quality Control Plan. The training manager shall develop and implement a quality control plan. The plan shall be used to maintain or improve the quality of the accredited training provider over time.

1. This plan shall contain at least the following elements:

A. Procedures for periodic revision of training materials and the course exam to reflect innovations in the field.

B. Procedures for the training manager's annual review of principal instructor competency.

C. A review to ensure the adequacy of the facilities and equipment.

2. An annual report discussing the results of the quality control plan shall be submitted to OLLA one (1) year following accreditation and at renewal.

(I) Access by OLLA. The accredited training provider shall allow OLLA to conduct audits as needed in order for OLLA to evaluate the provider's compliance with OLLA accreditation requirements. During this audit, the provider shall make available to OLLA information necessary to complete the evaluation. At OLLA's request, the provider shall also make documents available for photocopying.

(J) Recording Keeping. The accredited training provider shall maintain at its principal place of business, for at least five (5) years, the following records:

1. All documents specified in sections (7)(B) and (8)(B) of this regulation that demonstrate the qualifications listed in section (7)(A) of this regulation for the training manager, and section (8)(A) of this regulation for the principal instructor.

2. Curriculum/course materials and documents reflecting any changes made to these materials.

3. The course examination and blueprint.

4. Information regarding how the hands-on skills assessment is conducted including, but not limited to:

A. Who conducts the assessment.

B. How the skills are graded.

C. What facilities are used.

D. The pass/fail rate.

E. The quality control plan as described in section (6)(H) of this regulation.

5. Results of the students' hands-on skills assessments and course exams, and a record of each student's course completion certificate.

6. Any other material not listed in section (J)4. of this regulation that was submitted to OLLA as part of the training provider's application for accreditation.

(K) Course Notification. The accredited training provider shall notify OLLA in writing fourteen (14) calendar days prior to conducting an accredited training course.

1. The notification shall include:

A. The location of the course if it will be conducted at a location other than the provider's training facility.

B. The dates and times of the course.

C. The name of the course.

D. The name of the principal instructor and any guest instructors conducting the course.

2. If the scheduled training course has been changed or canceled, the accredited training provider shall notify OLLA in writing twenty-four (24) hours prior to the scheduled training course.

(L) Changes of a Training course. Once a training course has been accredited, any changes in any one of the items listed below must be submitted in writing to OLLA for review and approval prior to the continuation of the training course:

1. Course curriculum;
2. Course examination;
3. Course materials;
4. Training manager and/or principal instructors; and/or
5. Certificate of completion.

Within sixty (60) calendar days of receipt of a change of a training course, OLLA shall inform the provider in writing that the change is either approved or disapproved. If the change is approved, the accredited training provider shall include the change in the training course. If the change is disapproved, the accredited training provider shall not include the change in the training course.

(M) Change of ownership. If an accredited training provider changes ownership, the new owner shall notify OLLA in writing at least thirty (30) calendar days prior to the change of ownership becoming effective. The notification shall include a new training course provider accreditation application, the appropriate fee(s), and the date that the change of ownership will become effective. The new training course provider accreditation application shall be processed pursuant to 19 CSR 30-70.320. The current Training Provider's accreditation shall expire on the effective date set forth in the notification of the change of ownership.

(N) Change of address. The accredited training provider shall notify OLLA in writing of the accredited training provider's new address, telephone number and description of the new training facility, and shall submit such notification to OLLA not later than thirty (30) days prior to relocating its business or transferring its records.

(7) Training, Education and Experience Requirements for the Training Manager.

(A) The education and/or experience requirements for the Training Manager shall include one (1) year of experience in lead or asbestos abatement, painting, carpentry, renovation, remodeling, occupational safety and health, or industrial hygiene; and at least one of the following:

1. A minimum of two (2) years of experience teaching or training adults;
2. A bachelor's or graduate degree in building construction technology, engineering, industrial hygiene, safety, public health, business administration, education; or
3. A minimum of two (2) years experience in managing a training program specializing in environmental hazards.

(B) The following records of experience and education shall be recognized by OLLA as evidence that the individual meets or exceeds OLLA requirements for a Training Manager:

1. Resumes, letters of reference from past employers, or documentation to evidence past experience, which includes dates (month/year) of employment, employer's name, address, telephone number, and specific job duties, as evidence of meeting the experience requirements.
2. Official academic transcripts or diploma, as evidence of meeting the education requirements.

(8) Training, Education and Experience Requirements for the Principal Instructor.

(A) The training, education and experience requirements for the Principal Instructor of a Training Course includes all of the following:

1. Successfully completed at least twenty-four (24) hours of any OLLA- or EPA-accredited lead-specific training;
2. A minimum of one (1) year of experience in teaching or training adults; and
3. A minimum of one (1) year of experience in lead or asbestos abatement, painting, carpentry, renovation, remodeling, occupational safety and health, or industrial hygiene, or an Associate degree or higher from a post-secondary educational institution in building construction technology, engineering, safety, public health, or industrial hygiene.

(B) The following records of experience and education shall be recognized by OLLA as evidence that the individual meets or exceeds OLLA requirements for a Principal Instructor:

1. Course completion certificates issued by the OLLA- or EPA-accredited training provider as evidence of meeting the training requirements.
2. Official academic transcripts or diploma, as evidence of meeting the education requirements.
3. Resumes, letters of reference from past employers, or documentation to evidence past experience, which includes dates (month/year) of employment, employer's name, address, telephone number, and specific job duties, as evidence of meeting the experience requirements.

AUTHORITY: sections 701.301 and 701.314, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. A proposed rule covering this same material is published in this issue of the ***Missouri Register****.*

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

EMERGENCY RULE

19 CSR 30-70.330 Requirements for a Training Provider of a Lead Inspector Training Course

PURPOSE: This rule delineates the curriculum requirements for a Lead Inspector Training Course.

EMERGENCY STATEMENT: This emergency rule is necessary in order for the Missouri Department of Health to continue to administer and enforce standards for lead-bearing substance activities to protect human health and the environment. Such rule has to be in effect in order for the Environmental Protection Agency to review and authorize the Missouri Department of Health to continue to administer and enforce the standards, regulations and other requirements for lead-bearing substance activities. Upon receipt of the Missouri Department of Health's application and certification that the state lead-bearing substance program is at least as protective as the federal program and provides adequate enforcement, the program shall be deemed authorized by the Environmental Protection Agency unless and until the Environmental Protection Agency disapproves the program application or withdraws the program authorization. The application must contain regulations, statutes and other standards regarding the administration and enforcement of this state program. Without emergency promulgation of this rule, as of August 30, 1999, the Environmental Protection Agency will usurp the authority of the state as to the regulation of lead-bearing substance activities. The Missouri Department of Health finds an immediate danger to the public health and welfare and a compelling government interest, which require emergency action. The scope of this rule is limited to the circumstances creating the emergency and complies with the protections extended in the ***Missouri*** *and* ***United States Constitutions****. The Department of Health believes this emergency rule is fair to all interested persons and parties under the circum-*

stances. The emergency rule was filed August 19, 1999, effective August 30, 1999, and expires February 25, 2000.

(1) A Training Provider of a Lead Inspector Training Course must ensure that their Lead Inspector Training Course curriculum includes, at a minimum, sixteen (16) training hours of classroom training and eight (8) training hours of hands-on training.

(2) A lead inspector training course shall include, at a minimum, the following course topics. Requirements ending in an asterisk (*) indicate areas that require hands-on training as an integral component of the course.

(A) Role and responsibilities of an inspector;

(B) Background information on lead: history of lead use and sources of environmental lead contamination;

(C) Health effects of lead: how lead enters and affects the body; levels of concern; and symptoms, diagnosis and treatments;

(D) Regulatory background and overview of lead in applicable state and federal guidance or regulations pertaining to lead-bearing substances including: 40 CFR part 745; U.S. HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (and its most recent revisions), 29 CFR part 1910.1200; 29 CFR part 1926.62; Title X: Residential Lead-Based Paint Hazard Reduction Act of 1992;

(E) Sections 701.300 to 701.338, RSMo, Missouri regulations pertaining to lead licensure, and Missouri Work Practice Standards for Lead-Bearing Substances specific to lead inspection activities;

(F) Lead-based paint inspection methods, including selection of rooms and components for sampling or testing;*

(G) Pre-inspection planning and review including: developing a schematic site plan, determining inspection criteria and locations to collect samples in single and multi-family housing;*

(H) Paint, dust, and soil sampling methodologies including:*

1. Lead-based paint testing or X-ray fluorescence paint analyzer (XRF) use: types of XRF units and basic operation and interpretation of XRF results, including substrate correction.

2. Soil sample collection including soil sampling techniques, number and location of soil samples, and interpretation of soil sampling results;

3. Dust sample collection techniques including number and location of wipe samples, and interpretation of test results;

(I) Quality control and assurance procedures in testing analysis;

(J) Legal liabilities and obligations;

(K) Clearance standards and testing, including random sampling;*

(L) Record keeping; and

(M) Preparation of the final inspection report.*

AUTHORITY: sections 701.301 and 701.314, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug 30, 1999, expires Feb. 25, 2000. A proposed rule covering this same material is published in this issue of the ***Missouri Register****.*

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

EMERGENCY RULE

19 CSR 30-70.340 Requirements for a Training Provider of a Risk Assessor Training Course

PURPOSE: This rule delineates the curriculum requirements for a Risk Assessor Training Course.

EMERGENCY STATEMENT: This emergency rule is necessary in order for the Missouri Department of Health to continue to administer and enforce standards for lead-bearing substance activities to protect human health and the environment. Such rule has to be in effect in order for the Environmental Protection Agency to review and authorize the Missouri Department of Health to continue to administer and enforce the standards, regulations and other requirements for lead-bearing substance activities. Upon receipt of the Missouri Department of Health's application and certification that the state lead-bearing substance program is at least as protective as the federal program and provides adequate enforcement, the program shall be deemed authorized by the Environmental Protection Agency unless and until the Environmental Protection Agency disapproves the program application or withdraws the program authorization. The application must contain regulations, statutes and other standards regarding the administration and enforcement of this state program. Without emergency promulgation of this rule, as of August 30, 1999, the Environmental Protection Agency will usurp the authority of the state as to the regulation of lead-bearing substance activities. The Missouri Department of Health finds an immediate danger to the public health and welfare and a compelling government interest, which require emergency action. The scope of this rule is limited to the circumstances creating the emergency and complies with the protections extended in the ***Missouri*** *and* ***United States Constitutions****. The Department of Health believes this emergency rule is fair to all interested persons and parties under the circumstances. The emergency rule was filed August 19, 1999, effective August 30, 1999, and expires February 25, 2000.*

(1) A Training Provider of a Risk Assessor Training Course must ensure that their Risk Assessor Training Course curriculum includes, at a minimum, twelve (12) training hours of classroom training and four (4) training hours of hands-on training—

(2) A lead risk assessor training course shall include, at a minimum, the following course topics. Requirements ending in an asterisk (*) indicate areas that require hands-on training as an integral component of the course.

(A) Role and responsibilities of a risk assessor;

(B) Collection of background information to perform a risk assessment, including information on the age and history of the housing and occupancy by children under six (6) years of age and women of child-bearing age;

(C) Sources of environmental lead contamination such as paint, surface dust and soil, water, air, packaging, and food;

(D) Visual inspection for the purposes of identifying potential sources of lead hazards;*

(E) Lead hazard screen protocol;*

(F) Sampling for other sources of lead exposure, including drinking water;*

(G) Interpretation of lead-based paint and other lead sampling results related to Missouri clearance standards;*

(H) Sections 701.300 to 701.338, RSMo, Missouri regulations pertaining to lead licensure, and Missouri Work Practice Standards for Lead-Bearing Substances specific to risk assessment activities;

(I) Development of hazard control options, the role of interim controls, and operations and maintenance activities to reduce lead-bearing substance hazards;

(J) Legal liabilities and obligations specific to a risk assessor; and

(K) Preparation of a final risk assessment report.*

AUTHORITY: sections 701.301 and 701.314, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. A proposed rule covering this same material is published in this issue of the ***Missouri Register****.*

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

EMERGENCY RULE

19 CSR 30-70.350 Requirements for a Training Provider of a Lead Abatement Worker Training Course

PURPOSE: This rule delineates the curriculum requirements for a Lead Abatement Worker Training Course.

*EMERGENCY STATEMENT: This emergency rule is necessary in order for the Missouri Department of Health to continue to administer and enforce standards for lead-bearing substance activities to protect human health and the environment. Such rule has to be in effect in order for the Environmental Protection Agency to review and authorize the Missouri Department of Health to continue to administer and enforce the standards, regulations and other requirements for lead-bearing substance activities. Upon receipt of the Missouri Department of Health's application and certification that the state lead-bearing substance program is at least as protective as the federal program and provides adequate enforcement, the program shall be deemed authorized by the Environmental Protection Agency unless and until the Environmental Protection Agency disapproves the program application or withdraws the program authorization. The application must contain regulations, statutes and other standards regarding the administration and enforcement of this state program. Without emergency promulgation of this rule, as of August 30, 1999, the Environmental Protection Agency will usurp the authority of the state as to the regulation of lead-bearing substance activities. The Missouri Department of Health finds an immediate danger to the public health and welfare and a compelling government interest, which require emergency action. The scope of this rule is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri** and **United States Constitutions**. The Department of Health believes this emergency rule is fair to all interested persons and parties under the circumstances. The emergency rule was filed August 19, 1999, effective August 30, 1999, and expires February 25, 2000.*

(1) A Training Provider of a Lead Abatement Worker Course must ensure that their Lead Abatement Worker Training Course curriculum includes, at a minimum, sixteen (16) training hours of classroom training and eight (8) training hours of hands-on training.

(2) A lead abatement worker training course shall include, at a minimum, the following course topics. Requirements ending in an asterisk (*) indicate areas that require hands-on training as an integral component of the course.

(A) Role and responsibilities of an abatement worker;

(B) Background information on lead: history of lead use and sources of environmental lead contamination;

(C) Health effects of lead: how lead enters and affects the body; levels of concern; and symptoms, diagnosis and treatments;

(D) Regulatory background and overview of lead in applicable state and federal guidance or regulations pertaining to lead-bearing substances including: 40 CFR part 745; U.S. HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (and its most recent revisions), 29 CFR part 1910.1200; 29 CFR part 1926.62; Title X: Residential Lead-Based Paint Hazard Reduction Act of 1992;

(E) Personal protective equipment information, including respiratory equipment selection, air-purifying respirators, care and cleaning of respirators, respiratory program, protective clothing and equipment, and hygienic practices.*

(F) Lead hazard recognition and control; site characterization, exposure measurements, medical surveillance, and engineering controls;*

(G) Pre-abatement set-up procedures, including containments for residential and commercial building, and superstructures;*

(H) Lead abatement and lead hazard reduction methods for residential and commercial buildings, and superstructures, including prohibited practices;*

(I) Sections 701.300 to 701.338, RSMo, Missouri regulations pertaining to lead licensure, Missouri Work Practice Standards for Lead-Bearing Substances specific to lead abatement activities;

(J) Interior dust abatement methods and cleanup techniques;*

(K) Soil and exterior dust abatement methods;* and

(L) Waste disposal techniques.

*AUTHORITY: sections 701.301 and 701.314, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. A proposed rule covering this same material is published in this issue of the **Missouri Register**.*

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

EMERGENCY RULE

19 CSR 30-70.360 Requirements for a Training Provider of a Lead Abatement Supervisor Training Course

PURPOSE: This rule delineates the curriculum requirements for a Lead Abatement Supervisor Training Course.

*EMERGENCY STATEMENT: This emergency rule is necessary in order for the Missouri Department of Health to continue to administer and enforce standards for lead-bearing substance activities to protect human health and the environment. Such rule has to be in effect in order for the Environmental Protection Agency to review and authorize the Missouri Department of Health to continue to administer and enforce the standards, regulations and other requirements for lead-bearing substance activities. Upon receipt of the Missouri Department of Health's application and certification that the state lead-bearing substance program is at least as protective as the federal program and provides adequate enforcement, the program shall be deemed authorized by the Environmental Protection Agency unless and until the Environmental Protection Agency disapproves the program application or withdraws the program authorization. The application must contain regulations, statutes and other standards regarding the administration and enforcement of this state program. Without emergency promulgation of this rule, as of August 30, 1999, the Environmental Protection Agency will usurp the authority of the state as to the regulation of lead-bearing substance activities. The Missouri Department of Health finds an immediate danger to the public health and welfare and a compelling government interest, which require emergency action. The scope of this rule is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri** and **United States Constitutions**. The Department of Health believes this emergency rule is fair to all interested persons and parties under the circumstances. The emergency rule was filed August 19, 1999, effective August 30, 1999, and expires February 25, 2000.*

(1) A Training Provider of a Lead Abatement Supervisor Training Course must ensure that their Lead Abatement Supervisor

Training Course curriculum includes, at a minimum, twenty-eight (28) training hours of classroom training and twelve (12) training hours of hands-on training.

(2) A lead abatement supervisor training course shall include, at a minimum, the following course topics. Requirements ending in an asterisk (*) indicate areas that require hands-on training as an integral component of the course.

(A) Role and responsibilities of a supervisor;

(B) Background information on lead: history of lead use and sources of environmental lead contamination;

(C) Health effects of lead: how lead enters and affects the body, levels of concern, and symptoms, diagnosis and treatments;

(D) Regulatory background and overview of lead in applicable state and federal guidance or regulations pertaining to lead-bearing substances including: 40 CFR part 745; U.S. HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (and its most recent revisions), 29 CFR part 1910.1200; 29 CFR part 1926.62; Title X: Residential Lead-Based Paint Hazard Reduction Act of 1992;

(E) Liability and insurance issues relating to lead abatement;

(F) Cost estimation;*

(G) Risk assessment and inspection report interpretation;*

(H) Development and implementation of an occupant protection plan and pre-abatement work plan, including containments for residential and commercial buildings, and superstructures;*

(I) Community relations process;

(J) Lead hazard recognition and control;*

(K) Hazard recognition and control techniques: site characterization, exposure measurements, material identification, safety and health planning, medical surveillance, and engineering controls;

(L) Personal protective equipment information regarding respiratory equipment selection, air-purifying respirators, care and cleaning of respirators, respiratory program, protective clothing and equipment, and hygienic practices;*

(M) Lead abatement and lead hazard reduction methods, including prohibited practices, for residential and commercial buildings and superstructures;*

(N) Sections 701.300 to 701.338, RSMo, Missouri regulations pertaining to lead licensure, Missouri Work Practice Standards for Lead-Bearing Substances specific to lead abatement activities;

(O) Project management including supervisory techniques, contractor specifications; emergency response planning, and blueprint reading.*

(P) Interior dust abatement and cleanup techniques;*

(Q) Soil and exterior dust abatement methods;*

(R) Clearance standards and testing;

(S) Cleanup and waste disposal;

(T) Recordkeeping; and

(U) Preparation of an abatement report.*

AUTHORITY: sections 701.301 and 701.314, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. A proposed rule covering this same material is published in this issue of the ***Missouri Register****.*

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

EMERGENCY RULE

19 CSR 30-70.370 Requirements for a Training Provider of a Project Designer Training Course

PURPOSE: This rule delineates the curriculum requirements for a Project Designer Training Course.

EMERGENCY STATEMENT: This emergency rule is necessary in order for the Missouri Department of Health to continue to administer and enforce standards for lead-bearing substance activities to protect human health and the environment. Such rule has to be in effect in order for the Environmental Protection Agency to review and authorize the Missouri Department of Health to continue to administer and enforce the standards, regulations and other requirements for lead-bearing substance activities. Upon receipt of the Missouri Department of Health's application and certification that the state lead-bearing substance program is at least as protective as the federal program and provides adequate enforcement, the program shall be deemed authorized by the Environmental Protection Agency unless and until the Environmental Protection Agency disapproves the program application or withdraws the program authorization. The application must contain regulations, statutes and other standards regarding the administration and enforcement of this state program. Without emergency promulgation of this rule, as of August 30, 1999, the Environmental Protection Agency will usurp the authority of the state as to the regulation of lead-bearing substance activities. The Missouri Department of Health finds an immediate danger to the public health and welfare and a compelling government interest, which require emergency action. The scope of this rule is limited to the circumstances creating the emergency and complies with the protections extended in the ***Missouri*** *and* ***United States Constitutions****. The Department of Health believes this emergency rule is fair to all interested persons and parties under the circumstances. The emergency rule was filed August 19, 1999, effective August 30, 1999, and expires February 25, 2000.*

(1) A Training Provider of a Project Designer Training Course must ensure that their Project Designer Training Course curriculum includes, at a minimum, eight (8) training hours of classroom training.

(2) A project designer training course shall include, at a minimum, the following course topics.

(A) Role and responsibilities of a Project Designer;

(B) Development and implementation of an occupant protection plan for large scale abatement projects;

(C) Lead abatement and lead hazard reduction methods, including prohibited practices, for large-scale abatement projects;

(D) Interior dust abatement/cleanup or lead hazard control and reduction methods for large-scale abatement projects;

(E) Soil and exterior dust abatement methods for large scale abatement projects;

(F) Clearance standards and testing for large scale abatement projects; and

(G) Integration of lead abatement methods with modernization and rehabilitation projects for large scale abatement projects.

AUTHORITY: sections 701.301 and 701.314, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. A proposed rule covering this same material is published in this issue of the ***Missouri Register****.*

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

EMERGENCY RULE

19 CSR 30-70.380 Requirements for the Accreditation of Refresher Courses

PURPOSE: This rule delineates the requirements for Lead Inspector, Risk Assessor, Lead Abatement Worker, Lead Abatement Supervisor and/or Project Designer Refresher Training Courses.

*EMERGENCY STATEMENT: This emergency rule is necessary in order for the Missouri Department of Health to continue to administer and enforce standards for lead-bearing substance activities to protect human health and the environment. Such rule has to be in effect in order for the Environmental Protection Agency to review and authorize the Missouri Department of Health to continue to administer and enforce the standards, regulations and other requirements for lead-bearing substance activities. Upon receipt of the Missouri Department of Health's application and certification that the state lead-bearing substance program is at least as protective as the federal program and provides adequate enforcement, the program shall be deemed authorized by the Environmental Protection Agency unless and until the Environmental Protection Agency disapproves the program application or withdraws the program authorization. The application must contain regulations, statutes and other standards regarding the administration and enforcement of this state program. Without emergency promulgation of this rule, as of August 30, 1999, the Environmental Protection Agency will usurp the authority of the state as to the regulation of lead-bearing substance activities. The Missouri Department of Health finds an immediate danger to the public health and welfare and a compelling government interest, which require emergency action. The scope of this rule is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri** and **United States Constitutions**. The Department of Health believes this emergency rule is fair to all interested persons and parties under the circumstances. The emergency rule was filed August 19, 1999, effective August 30, 1999, and expires February 25, 2000.*

(1) Application for Accreditation of a Training Provider for a Refresher Training Course. A training provider may seek accreditation to offer refresher courses in any occupation. To obtain OLLA accreditation to offer refresher training, a training provider must meet the following minimum requirements:

(A) Each refresher course shall review the curriculum topics of the full-length courses listed under 19 CSR 30-70.330 through 19 CSR 30-70.370 as appropriate. In addition, training providers shall ensure that their courses of study include, at a minimum, the following:

1. An overview of current safety practices relating to lead-bearing substance activities in general, as well as specific information pertaining to the appropriate occupation;

2. Current laws and regulations relating to lead-bearing substance activities in general, as well as specific information pertaining to the appropriate occupation; and

3. Current technologies relating to lead-bearing substance activities in general, as well as specific information pertaining to the appropriate occupation.

(B) Each refresher course, except for the project designer course, shall last a minimum of eight (8) training hours. The project designer refresher course shall last a minimum of four (4) training hours.

(C) For each course offered, the training program shall conduct a hands-on assessment (if applicable).

(D) For each refresher course offered, the training provider shall conduct a course exam at the completion of the course.

(2) A training provider may apply for accreditation of a refresher course concurrently with its application for accreditation of the corresponding training course as described in 19 CSR 30-70.320 as appropriate. If so, OLLA shall use the procedures and requirements described in 19 CSR 30-70.320 for accreditation of the refresher course and the corresponding training course.

(3) A training provider seeking accreditation to offer refresher courses only, shall submit a written application to OLLA.

(A) Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The application shall include the following:

1. Completed training course accreditation application form provided by OLLA which shall include:

A. The training provider's name, address, and telephone number;

B. The name and date of birth of the training manager;

C. The name and date of birth of the principal instructor for each course;

D. A list of locations at which training will take place;

E. A list of courses for which the training provider is applying for accreditation; and

F. A statement signed by the training manager certifying that the information provided in the application for accreditation, and any additional information included with the application, is true and accurate to the best of the training manager's knowledge and understanding, that the training provider will comply with 19 CSR 30-70.310 through 19 CSR 30-70.400, and that the training provider will only conduct lead training in those occupations in which the training provider has received accreditation.

2. A copy of the student and instructor manuals;

3. Course agenda;

4. Course examination blueprint;

5. A copy of the quality control plan as described in 19 CSR 30-70.320(6)(H);

6. A copy of a sample course completion certificate as described in paragraph 19 CSR 30-70.320(6)(G);

7. A description of the facilities and equipment to be used for lecture and hands-on training;

8. A check or money order for the nonrefundable fee of two hundred fifty dollars ($250); provided, however, that training providers who are a state, federally recognized Indian tribe, local government or nonprofit organization shall be exempt from payment of such fee; and

9. The Training Manager's and Principal Instructor's qualifications.

(4) The procedures for issuance or denial in 19 CSR 30-70.320(5), and the requirements for accreditation of a training provider for a training course in 19 CSR 30-70.320(6) through 19 CSR 30-70.320(8), shall apply to all training providers applying for the accreditation of refresher training courses.

(5) Application for Accreditation of a Training Provider for a Refresher Training Course under Reciprocity. To obtain OLLA accreditation by reciprocity to offer refresher training in any occupation, a training provider shall submit a completed application to OLLA. Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(A) The application shall include the following:

1. Completed training course accreditation application form provided by OLLA which shall include:

A. The training provider's name, address, and telephone number;

B. The name and date of birth of the training manager;

C. The name and date of birth of the principal instructor for each course;

D. A list of locations at which training will take place;

E. A list of courses for which the training provider is applying for accreditation; and

F. A statement signed by the training manager certifying that the information provided in the application for accreditation, and any additional information included with the application, is

true and accurate to the best of the training manager's knowledge and understanding, that the training provider will comply with 19 CSR 30-70.310 through 19 CSR 30-70.400, and that the training provider will only conduct lead training in those occupation in which the training provider has received accreditation.

2. Course agenda;

3. Course examination blueprint;

4. A copy of the quality control plan as described in 19 CSR 30-70.320(6)(H);

5. A copy of a sample course completion certificate as described in paragraph 19 CSR 30-70.320(6)(G);

6. A description of the facilities and equipment to be used for lecture and hands-on training;

7. A check or money order for the nonrefundable fee of two hundred fifty dollars ($250); provided, however, that training providers who are a state, federally recognized Indian tribe, local government or nonprofit organization shall be exempt from payment of such fee; and

8. The Training Manager's and Principal Instructor's qualifications.

(B) The procedures for issuance or denial in 19 CSR 30-70.320(5), and the requirements for accreditation of a training provider for a training course in 19 CSR 30-70.320(6) through 19 CSR 30-70.320(8), shall apply to all training providers applying for accreditation by reciprocity of refresher training courses as applicable.

AUTHORITY: sections 701.301 and 701.314, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. A proposed rule covering this same material is published in this issue of the ***Missouri Register****.*

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

EMERGENCY RULE

19 CSR 30-70.390 Re-accreditation of a Training Course or Refresher Course

PURPOSE: This rule provides the processes and requirements for the re-accreditation of a Training Course or Refresher Course.

EMERGENCY STATEMENT: This emergency rule is necessary in order for the Missouri Department of Health to continue to administer and enforce standards for lead-bearing substance activities to protect human health and the environment. Such rule has to be in effect in order for the Environmental Protection Agency to review and authorize the Missouri Department of Health to continue to administer and enforce the standards, regulations and other requirements for lead-bearing substance activities. Upon receipt of the Missouri Department of Health's application and certification that the state lead-bearing substance program is at least as protective as the federal program and provides adequate enforcement, the program shall be deemed authorized by the Environmental Protection Agency unless and until the Environmental Protection Agency disapproves the program application or withdraws the program authorization. The application must contain regulations, statutes and other standards regarding the administration and enforcement of this state program. Without emergency promulgation of this rule, as of August 30, 1999, the Environmental Protection Agency will usurp the authority of the state as to the regulation of lead-bearing substance activities. The Missouri Department of Health finds an immediate danger to the public health and welfare and a compelling government interest, which require emergency action. The scope of this rule is limited to the circumstances creating the emergency and complies with the protections extended in the ***Missouri*** *and* ***United States Constitutions****. The Department of Health believes this emergency rule is fair to all interested persons and parties under the circumstances. The emergency rule was filed August 19, 1999, effective August 30, 1999, and expires February 25, 2000.*

(1) Unless sooner revoked, a training provider's accreditation (including refresher training accreditation) shall expire two (2) years after the date of issuance. If a training provider meets the requirements of this section, the training provider shall be re-accredited.

(2) A training provider seeking re-accreditation shall submit an application to OLLA at least sixty (60) calendar days before its accreditation expires. If a training provider does not submit its application for re-accreditation by that date, OLLA cannot guarantee that the provider will be re-accredited before the end of the accreditation period.

(3) The training provider's application for re-accreditation shall contain:

(A) Completed training provider course accreditation application form provided by OLLA which shall include:

1. The training provider's name, address, and telephone number;

2. The name and date of birth of the training manager;

3. The name and date of birth of the principal instructor for each course;

4. A list of locations at which training will take place;

5. A list of courses for which the training provider is applying for re-accreditation; and

6. A statement signed by the training manager certifying that the information provided in the application for re-accreditation, and any additional information included with the application, is true and accurate to the best of the training manager's knowledge and understanding, that the training provider will comply with 19 CSR 30-70.310 through 19 CSR 30-70.400, and that the training provider will only conduct lead training only in those occupations in which the training provider has received accreditation.

(B) A list of courses for which it is applying for re-accreditation.

(C) A description of any changes to the training facility, equipment or course materials since its last application was approved that adversely affects the students ability to learn.

(D) A check or money order made payable to the Missouri Department of Health for the nonrefundable fee of one thousand dollars ($1000) for the training course and two hundred fifty dollars ($250) for the refresher training course; provided, however that training providers who are a state, federally recognized Indian tribe, local government or nonprofit organization shall be exempt from payment of such fee.

(4) The training provider shall comply with all requirements in 19 CSR 30-70.320 through 19 CSR 30-70.380, as applicable.

(5) If the training provider has allowed its accreditation to expire, and the provider desires to be accredited, it must reapply pursuant to 19 CSR 30-70.320.

AUTHORITY: sections 701.301 and 701.314, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. A proposed rule covering this same material is published in this issue of the ***Missouri Register****.*

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

EMERGENCY RULE

19 CSR 30-70.400 Suspension, Revocation, and Restriction of Accredited Training Providers

PURPOSE: This rule provides the processes and reasons for suspension, revocation and restriction of an accredited training provider.

*EMERGENCY STATEMENT: This emergency rule is necessary in order for the Missouri Department of Health to continue to administer and enforce standards for lead-bearing substance activities to protect human health and the environment. Such rule has to be in effect in order for the Environmental Protection Agency to review and authorize the Missouri Department of Health to continue to administer and enforce the standards, regulations and other requirements for lead-bearing substance activities. Upon receipt of the Missouri Department of Health's application and certification that the state lead-bearing substance program is at least as protective as the federal program and provides adequate enforcement, the program shall be deemed authorized by the Environmental Protection Agency unless and until the Environmental Protection Agency disapproves the program application or withdraws the program authorization. The application must contain regulations, statutes and other standards regarding the administration and enforcement of this state program. Without emergency promulgation of this rule, as of August 30, 1999, the Environmental Protection Agency will usurp the authority of the state as to the regulation of lead-bearing substance activities. The Missouri Department of Health finds an immediate danger to the public health and welfare and a compelling government interest, which require emergency action. The scope of this rule is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri** and **United States Constitutions**. The Department of Health believes this emergency rule is fair to all interested persons and parties under the circumstances. The emergency rule was filed August 19, 1999, effective August 30, 1999, and expires February 25, 2000.*

(1) OLLA may restrict, suspend or revoke training provider accreditation if a training provider, training manager, or other person with supervisory authority over the training provider does any one or any combination of the following:

(A) Provides, offers to provide, or claims to provide OLLA-accredited training courses without such accreditation;

(B) Presents inaccurate information in a training course;

(C) Fails to submit required information or notifications to OLLA in a timely manner;

(D) Falsifies accreditation records, instructor qualifications, or other accreditation-related information or documentation;

(E) Fails to comply with the training standards and requirements in 19 CSR 30-70.320;

(F) Has history of citations or violations of existing local, state and federal regulations or standards;

(G) Has been convicted of a felony under any state or federal law or has entered a plea of guilty or *nolo contendere* in a criminal prosecution under the laws of any state or of the United States;

(H) Fails to comply with federal, state or local lead statutes or regulations;

(I) Makes false or misleading statements to OLLA in its application for accreditation or re-accreditation which OLLA relied upon in approving the application; or

(J) Final disciplinary action against a training provider by another state, territory, federal agency or country, whether or not voluntarily agreed to by the training provider, including, but not limited to, the denial of accreditation, surrender of the accreditation, allowing the accreditation to expire or lapse, or discontinuing or restricting the accreditation while subject to investigation or while actually under investigation by another state, territory, or federal agency or country.

(2) Prior to restricting, suspending, or revoking a training provider's accreditation, a training provider shall be given written notice of the reasons for the restriction, suspension and/or revocation. The training provider may request a hearing by the department according to Chapter 536 of Administrative Procedures Act.

*AUTHORITY: sections 701.301 and 701.314, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. A proposed rule covering this same material is published in this issue of the **Missouri Register**.*

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

EMERGENCY RULE

19 CSR 30-70.510 Standard of Professional Conduct

PURPOSE: This rule establishes a professional standard of conduct for licensed lead abatement workers, licensed lead abatement supervisors, licensed project designers, licensed lead inspectors, licensed risk assessors, licensed lead abatement contractors and training instructors and training managers of accredited lead training providers.

*EMERGENCY STATEMENT: This emergency rule is necessary in order for the Missouri Department of Health to continue to administer and enforce standards for lead-bearing substance activities to protect human health and the environment. Such rule has to be in effect in order for the Environmental Protection Agency to review and authorize the Missouri Department of Health to continue to administer and enforce the standards, regulations and other requirements for lead-bearing substance activities. Upon receipt of the Missouri Department of Health's application and certification that the state lead-bearing substance program is at least as protective as the federal program and provides adequate enforcement, the program shall be deemed authorized by the Environmental Protection Agency unless and until the Environmental Protection Agency disapproves the program application or withdraws the program authorization. The application must contain regulations, statutes and other standards regarding the administration and enforcement of this state program. Without emergency promulgation of this rule, as of August 30, 1999, the Environmental Protection Agency will usurp the authority of the state as to the regulation of lead-bearing substance activities. The Missouri Department of Health finds an immediate danger to the public health and welfare and a compelling government interest, which require emergency action. The scope of this rule is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri** and **United States Constitutions**. The Department of Health believes this emergency rule is fair to all interested persons and parties under the circumstances. The emergency rule was filed August 19, 1999, effective August 30, 1999, and expires February 25, 2000.*

(1) In performing lead-bearing substance activities, licensees shall act with reasonable care and competence in applying the technical

knowledge and skill as required by sections 701.300 through 701.338, RSMo, and 19 CSR 30-70.600 through 19 CSR 30-70.630 for the conduct of lead-bearing substance activities.

(2) In performing lead-bearing substance activities and training, licensees and accredited entities shall be cognizant that their primary responsibility is to conduct these activities safely, reliably, and effectively to protect human health and the environment. This shall not be compromised by any self-interest of the client, licensee or accredited entity.

(3) In performing lead-bearing substance activities and training, licensees and accredited entities shall not knowingly violate any local, state or federal laws. Licensees and accredited entities shall comply with state laws and regulations governing their practice.

(4) In instances where a licensee's or an accredited entity's professional judgment is overruled to the extent that it may endanger the health or welfare of the public or the environment, they shall notify their employer or client, OLLA, and/or other authority, as may be appropriate.

(5) Licensees and accredited entities shall not misrepresent or exaggerate the scope or the purpose for which they are licensed or accredited.

(6) Professional responsibility.

(A) The licensee or accredited training provider shall, upon request or demand, produce to OLLA, or any of its representatives, any plan, document, book, record or copy thereof concerning a transaction covered by these regulations, and shall cooperate in the investigation of a complaint filed with OLLA.

(B) A licensee shall not use the design, plans or work of another person without that person's knowledge and consent. After consent, the licensee shall conduct a thorough review to the extent that he or she assumes full responsibility for the use of such design, plan or work of the other person.

(7) Good standing in other jurisdictions.

(A) Persons licensed to design lead abatement projects, supervise lead abatement projects, conduct lead inspections and/or lead risk assessments, perform lead abatement work and training providers accredited to provide lead training in other jurisdictions shall be in good standing in every jurisdiction where licensed, certified, or accredited and shall not have had a license, certification or accreditation suspended, revoked or surrendered in connection with a disciplinary action.

(B) Licensees and accredited lead training providers shall notify OLLA in writing no later than 10 days after the final disciplinary action taken by another jurisdiction against their license or certification to conduct lead-bearing substance activities or against their accreditation to provide lead training.

AUTHORITY: sections 701.301, 701.312 and 701.314 RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. A proposed rule covering this same material is published in this issue of the ***Missouri Register****.*

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

EMERGENCY RULE

19 CSR 30-70.520 Public Complaint Handling and Disposition Procedure

PURPOSE: This rule establishes procedures for the handling and disposition of public complaints received by the Office of Lead Licensing and Accreditation concerning alleged violations of sections 701.300 through 701.338, RSMo.

EMERGENCY STATEMENT: This emergency rule is necessary in order for the Missouri Department of Health to continue to administer and enforce standards for lead-bearing substance activities to protect human health and the environment. Such rule has to be in effect in order for the Environmental Protection Agency to review and authorize the Missouri Department of Health to continue to administer and enforce the standards, regulations and other requirements for lead-bearing substance activities. Upon receipt of the Missouri Department of Health's application and certification that the state lead-bearing substance program is at least as protective as the federal program and provides adequate enforcement, the program shall be deemed authorized by the Environmental Protection Agency unless and until the Environmental Protection Agency disapproves the program application or withdraws the program authorization. The application must contain regulations, statutes and other standards regarding the administration and enforcement of this state program. Without emergency promulgation of this rule, as of August 30, 1999, the Environmental Protection Agency will usurp the authority of the state as to the regulation of lead-bearing substance activities. The Missouri Department of Health finds an immediate danger to the public health and welfare and a compelling government interest, which require emergency action. The scope of this rule is limited to the circumstances creating the emergency and complies with the protections extended in the ***Missouri*** *and* ***United States Constitutions****. The Department of Health believes this emergency rule is fair to all interested persons and parties under the circumstances. The emergency rule was filed August 19, 1999, effective August 30, 1999, and expires February 25, 2000.*

(1) Public complaints concerning alleged violations of sections 701.300 through 701.338, RSMo, shall be handled as follows:

(A) Any person may make a complaint alleging acts or practices which may constitute a violation of any provision of sections 701.300 through 701.338, RSMo, or 19 CSR 30-70.600 through 19 CSR 30-70.630 with OLLA based upon personal knowledge or upon information received from other sources. The complaint may be made against a licensed or unlicensed individual, against an accredited or non-accredited training provider or against an owner of a dwelling or child-occupied facility.

(B) Complaints may be oral or written. Written complaints shall be mailed to: Missouri Department of Health, Office of Lead Licensing and Accreditation, P.O. Box 570, Jefferson City, MO 65102-0570.

AUTHORITY: sections 701.301, 701.312 and 701.314, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. A proposed rule covering this same material is published in this issue of the ***Missouri Register****.*

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

EMERGENCY RULE

19 CSR 30-70.600 Definitions Pertaining to the Work Practice Standards for Conducting Lead-Bearing Substance Activities

PURPOSE: This rule provides definitions and acronyms to be used in the interpretation and enforcement of 19 CSR 30-70.600 through 19 CSR 30-70.640.

EMERGENCY STATEMENT: This emergency rule is necessary in order for the Missouri Department of Health to continue to administer and enforce standards for lead-bearing substance activities to protect human health and the environment. Such rule has to be in effect in order for the Environmental Protection Agency to review and authorize the Missouri Department of Health to continue to administer and enforce the standards, regulations and other requirements for lead-bearing substance activities. Upon receipt of the Missouri Department of Health's application and certification that the state lead-bearing substance program is at least as protective as the federal program and provides adequate enforcement, the program shall be deemed authorized by the Environmental Protection Agency unless and until the Environmental Protection Agency disapproves the program application or withdraws the program authorization. The application must contain regulations, statutes and other standards regarding the administration and enforcement of this state program. Without emergency promulgation of this rule, as of August 30, 1999, the Environmental Protection Agency will usurp the authority of the state as to the regulation of lead-bearing substance activities. The Missouri Department of Health finds an immediate danger to the public health and welfare and a compelling government interest, which require emergency action. The scope of this rule is limited to the circumstances creating the emergency and complies with the protections extended in the ***Missouri*** *and* ***United States Constitutions****. The Department of Health believes this emergency rule is fair to all interested persons and parties under the circumstances. The emergency rule was filed August 19, 1999, effective August 30, 1999, and expires February 25, 2000.*

(1) Adequate Quality Control—a plan or design which ensures the authenticity, integrity, and accuracy of samples, including dust, soil, and paint chip or paint film samples. Adequate quality control also includes provisions for representative sampling.

(2) Authorized personnel—licensed lead workers, licensed lead risk assessors, licensed lead supervisors, licensed lead contractors, licensed project designers, representatives of the department and any persons authorized by the department to enter regulated areas.

(3) Bare Soil Area—any continuous three (3) square foot area or more of soil that has no or little plant growth or other covering, and that may be accessible to a child or may provide a source of airborne lead-bearing dust, including the sand in sandboxes.

(4) Clearance Level—values that indicate the maximum concentration of lead allowed in surface dust, soil or water following an abatement activity.

(5) Common Area—a portion of a building that is generally accessible to all occupants including, but not limited to, hallways, garages, laundry rooms, community centers, boundary fences, stairways, playgrounds and recreational rooms.

(6) Component or Building Component—a specific design, structural element or fixture of a building, dwelling or child-occupied facility that can be distinguished from each other by form, function and location.

(7) Containment—the structural system for protecting residents, the general public and the environment by controlling exposure to lead dust and debris created during a lead abatement project.

(8) Critical Barrier Containment—two or more layers of 6-mil poly, or thicker, sealed over the entrance into a work area to prevent lead dust and debris from migrating outside of a regulated area.

(9) Disposal—the depositing or placing of lead-bearing components or a lead-bearing substance as waste.

(10) Distinct Painting History—the application history, as indicated by its visual appearance or a record of application, over time, of paint or other surface coatings to a component or room.

(11) Documented Methodologies—are methods or protocols used to sample for the presence of lead in paint, dust, soil and water while incorporating adequate quality control.

(12) Elevated Blood Lead Level (EBL)—is an excessive absorption of lead that is a confirmed concentration of lead in whole blood of greater than or equal to ten micrograms per deciliter ($\geq 10 \mu g/dl$) in persons under age eighteen (< 18).

(13) Emergency Situation—any lead abatement project that results from a sudden, unexpected event which poses an immediate threat to human health or the environment.

(14) EPA—United States Environmental Protection Agency.

(15) Hazardous Waste—any waste designated as hazardous by 10 CSR 25-4.261 and/or 40 CFR 261.

(16) High Efficiency Particulate Air (HEPA) Filter—a filter capable of removing particles of 0.3 microns or larger from air at 99.97 percent or greater efficiency.

(17) HUD—United States Department of Housing and Urban Development.

(18) HUD Guidelines—the most recent version of the "Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing," published by HUD.

(19) Industrial Lead Abatement—a lead abatement project performed on a structure not defined as a dwelling or child-occupied facility which includes, but is not limited to, bridges, water towers, holding tanks and other superstructures.

(20) Intact Paint Surface—any painted surface that is not chipped, chalked, peeled, flaked or otherwise separated from its substrate or that is not attached to a damaged substrate.

(21) Lead Hazard Screen—a risk assessment activity that involves limited paint and dust sampling as described in 19 CSR 30-70.620(7).

(22) Living Area—any area of a residential dwelling used by one or more children age 6 and under, including, but not limited to, living rooms, kitchen areas, dens, play rooms and children's bedrooms.

(23) Multi-Family Dwelling—a structure that contains more than one separate residential dwelling unit, which is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of one or more persons.

(24) NLLAP—National Lead Laboratory Accreditation Program.

(25) OLLA—Missouri Department of Health, Office of Lead Licensing and Accreditation, or subsequent designations of such office.

(26) Permanent—an activity that is designed to eliminate exposure to lead hazards for at least 20 years, under typical conditions, from the date of application.

(27) Poly—polyethylene sheeting.

(28) RCRA—Resource Conservation and Recovery Act.

(29) Regulated Area—an area where a lead-bearing substance activity is being conducted.

(30) Room Equivalent—an identifiable part of a residence, such as a room, a house exterior, a foyer, staircase, hallway or an exterior area (i.e., play areas, painted swing sets, painted sandboxes, etc.).

(31) Structural Integrity—a professional judgment as to the condition of a substrate, component or structure itself.

(32) Substrate—a surface to which a surface coating has been or may be applied. Examples of substrates are wood, metal, plaster, gypsum, concrete and brick.

(33) Surface Coating Integrity—a professional judgment as to whether a surface coating is cracked, chipped, peeling, blistering, flaking or otherwise deteriorated in any way.

(34) Surface Coatings—include, but are not limited to, paints, stains, lacquers, varnishes and shellacs.

(35) Target Housing—a dwelling built prior to 1978.

(36) Testing Combination—a unique combination of a room equivalent, building component type and substrate.

(37) TSCA—Toxic Substances Control Act.

AUTHORITY: sections 701.301 and 701.312, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. A proposed rule covering this same material is published in this issue of the ***Missouri Register****.*

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

EMERGENCY RULE

19 CSR 30-70.610 Work Practice Standards for a Lead Inspection

PURPOSE: This rule delineates the standards to be followed by licensed lead inspectors and licensed risk assessors to conduct lead inspections in accordance with standards set forth in sections 701.300 through 701.338, RSMo, and 19 CSR 30-70.600 through 19 CSR 30-70.630.

EMERGENCY STATEMENT: This emergency rule is necessary in order for the Missouri Department of Health to continue to administer and enforce standards for lead-bearing substance activities to protect human health and the environment. Such rule has to be in effect in order for the Environmental Protection Agency to review and authorize the Missouri Department of Health to continue to administer and enforce the standards, regulations and other requirements for lead-bearing substance activities. Upon receipt of the Missouri Department of Health's application and certification that the state lead-bearing substance program is at least as protective as the federal program and provides adequate enforcement, the program shall be deemed authorized by the Environmental Protection Agency unless and until the Environmental Protection Agency disapproves the program application or withdraws the program authorization. The application must contain regulations, statutes and other standards regarding the administration and enforcement of this state program. Without emergency promulgation of this rule, as of August 30, 1999, the Environmental Protection Agency will usurp the authority of the state as to the regulation of lead-bearing substance activities. The Missouri Department of Health finds an immediate danger to the public health and welfare and a compelling government interest, which require emergency action. The scope of this rule is limited to the circumstances creating the emergency and complies with the protections extended in the ***Missouri*** *and* ***United States Constitutions****. The Department of Health believes this emergency rule is fair to all interested persons and parties under the circumstances. The emergency rule was filed August 19, 1999, effective August 30, 1999, and expires February 25, 2000.*

(1) Licensure. All persons conducting lead inspections shall be licensed by OLLA as set forth in sections 701.300 through 701.338, RSMo, and 19 CSR 30-70.110 through 19 CSR 30-70.200 as a lead inspector or risk assessor. Licensed lead inspectors and risk assessors shall present, upon request, proof of licensure in the form of the photo identification badge issued by OLLA.

(2) Conflict of interest. OLLA recommends that licensed lead inspectors and risk assessors conducting lead inspection activities should avoid potential conflicts of interest by not being contracted, subcontracted or employed by a lead abatement contractor performing lead abatement activities on the same lead abatement project.

(3) Documented Methodologies for Conducting Lead Inspections.

(A) Licensed lead inspectors and risk assessors shall use the following documented methodologies as referenced in this regulation for conducting lead inspections:

1. The US Department of Housing and Urban Development publication entitled, "Guidelines for the Evaluation and Control of Lead-based Paint Hazards in Housing" (HUD Guidelines); and

2. The US Environmental Protection Agency publications entitled "EPA Lead-Based Paint Inspector Model Curriculum"; "Guidance on Residential Lead-Based Paint, Lead-Contaminated Dust and Lead-Contaminated Soil"; and "Residential Sampling for Lead: Protocols for Dust and Soil Sampling".

(B) Where a conflict exists between any of the aforementioned methodologies and any federal or state statute or regulation, or any city or county ordinance, the most stringent of these shall be adhered to by the licensed lead inspector or risk assessor.

(4) Sample Forms and Questionnaires. Sample forms and questionnaires may be found within the documented methodologies listed in section (3) of this regulation. These sample forms and questionnaires may be used as a guide by licensed lead inspectors or risk assessors.

(5) Any paint chip, dust, or soil samples collected pursuant to these work practice standards shall be:

(A) Collected by persons licensed by OLLA as a lead inspector or risk assessor; and

(B) Analyzed by an NLLAP-accredited laboratory.

(6) Lead Inspection.

(A) When conducting a lead inspection, the following locations shall be selected according to the documented methodologies referenced in section (3) of this regulation and tested for the presence of lead-bearing substances:

1. In dwellings and child-occupied facilities, surface-by-surface sampling by paint chip collection and/or X-Ray Fluorescence (XRF) analysis shall be conducted on components with distinct painting histories, including those components that are stained, shellacked, varnished or covered with wallpaper.

2. For multi-family dwellings and child-occupied facilities, the samples required in paragraph (6)(A)(1) of this regulation shall be taken. In addition, surface-by-surface sampling by paint chip collection and/or XRF analysis shall be conducted in common areas on components with distinct painting histories, including those components that are stained, shellacked, varnished or covered with wallpaper.

(B) Paint and other surface coatings shall be sampled according to the documented methodologies referenced in section (3) of this regulation.

(7) Lead Inspection Report. The inspection report shall be prepared by the OLLA-licensed lead inspector or risk assessor that performed the lead inspection and shall include the following:

(A) Date of inspection;

(B) Address of dwelling or child-occupied facility;

(C) Date dwelling or child-occupied was constructed;

(D) Apartment numbers (if applicable);

(E) Name, address and telephone number of the owner or owners of each residential dwelling or child-occupied facility;

(F) Name, signature and license number of each licensed inspector and/or risk assessor conducting lead inspection;

(G) Name, address and telephone number of the firm employing each inspector and/or risk assessor;

(H) XRF results including the following (if applicable):

1. XRF manufacturer and model;

2. Serial number of XRF device used during the inspection;

3. Calibration verification from the beginning and end of each dwelling unit;

4. A copy of the XRF device user's certificate of training provided by the equipment manufacturer;

5. License or registration number of the instrument;

6. A summary that categorizes the XRF results into one of three categories: positive, negative or inconclusive; and

7. Recommendations for addressing inconclusive XRF results.

(M) A summary of laboratory results categorized as positive or negative and the name of each accredited laboratory that conducted the analysis (if applicable);

(I) Floor plans or sketches of the units inspected showing approximate test locations and any identifying number systems;

(J) A summary of the substrates tested including identification of component, component integrity, paint condition and color, and test identification numbers associated with the results; and

(K) The results of the inspection expressed in terms appropriate to the sampling method used.

(8) Time Frame for Submission of Reports. The inspection report shall be provided to the owner of the property within twenty (20) business days of lead inspection completion.

(9) Report Records Retention. All lead inspection reports shall be maintained by the licensed lead inspector or risk assessor who prepared the report for no fewer than three (3) years. The licensed lead inspector or risk assessor shall make copies of lead inspection reports available to OLLA upon request.

AUTHORITY: sections 701.301, 701.312 and 701.316, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. A proposed rule covering this same material is published in this issue of the ***Missouri Register****.*

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

EMERGENCY RULE

19 CSR 30-70.620 Work Practice Standards for a Lead Risk Assessment

PURPOSE: This rule delineates the standards to be followed by licensed risk assessors to conduct risk assessments in accordance with standards set forth in sections 701.300 through 701.338, RSMo, and 19 CSR 30-70.600 through 19 CSR 30-70.630.

EMERGENCY STATEMENT: This emergency rule is necessary in order for the Missouri Department of Health to continue to administer and enforce standards for lead-bearing substance activities to protect human health and the environment. Such rule has to be in effect in order for the Environmental Protection Agency to review and authorize the Missouri Department of Health to continue to administer and enforce the standards, regulations and other requirements for lead-bearing substance activities. Upon receipt of the Missouri Department of Health's application and certification that the state lead-bearing substance program is at least as protective as the federal program and provides adequate enforcement, the program shall be deemed authorized by the Environmental Protection Agency unless and until the Environmental Protection Agency disapproves the program application or withdraws the program authorization. The application must contain regulations, statutes and other standards regarding the administration and enforcement of this state program. Without emergency promulgation of this rule, as of August 30, 1999, the Environmental Protection Agency will usurp the authority of the state as to the regulation of lead-bearing substance activities. The Missouri Department of Health finds an immediate danger to the public health and welfare and a compelling government interest, which require emergency action. The scope of this rule is limited to the circumstances creating the emergency and complies with the protections extended in the ***Missouri*** *and* ***United States Constitutions****. The Department of Health believes this emergency rule is fair to all interested persons and parties under the circumstances. The emergency rule was filed August 19, 1999, effective August 30, 1999, and expires February 25, 2000.*

(1) Licensure. All persons conducting risk assessments shall be licensed by OLLA as set forth in sections 701.300 through 701.338, RSMo, and 19 CSR 30-70.110 through 19 CSR 30-70.200. Licensed risk assessors must present, upon request, proof of licensure in the form of the photo identification badges issued by OLLA.

(2) Conflict of Interest. OLLA recommends that licensed risk assessors conducting risk assessments for dwellings or child-occupied facilities should avoid potential conflicts of interest by not being contracted, subcontracted, or employed by a lead abatement contractor performing abatement activities on the same lead abatement project.

(3) Documented Methodologies for Conducting Risk Assessments.

(A) Licensed risk assessors shall use the following documented methodologies as referenced in this regulation for conducting risk assessments:

1. The U.S. Department of Housing and Urban Development publication entitled, "Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing" (HUD Guidelines); and

2. The U.S. Environmental Protection Agency publications entitled, "EPA Lead-Based Paint Risk Assessment Model Curriculum" (EPA Model Training); "Guidance on Residential Lead-Based Paint, Lead-Contaminated Dust and Lead-Contaminated Soil"; and "Residential Sampling for Lead: Protocols for Dust and Soil Sampling".

(B) Where a conflict exists between any of the aforementioned methodologies and any federal or state statute or regulation, or any city or county ordinance, the most stringent of these shall be adhered to by the licensed risk assessor.

(4) Collection and Laboratory Analysis of Samples. Any paint chip, dust, or soil samples collected pursuant to these work practice standards shall be:

(A) Collected by persons licensed by OLLA as a lead inspector or risk assessor.

(B) Analyzed by an NLLAP-accredited laboratory.

(5) Sample Forms and Questionnaires. Sample forms and questionnaires may be found within the documented methodologies referenced in section (3) of this regulation. These samples may be used as a guide by Missouri licensed risk assessors.

(6) Lead Risk Assessment.

(A) A visual inspection for risk assessment of the dwelling or child-occupied facility shall be conducted to locate the existence of deteriorated lead-bearing substances, assess the extent and causes of the deterioration, and other potential lead hazards.

(B) Background information regarding the physical characteristics of the dwelling or child-occupied facility and occupant use patterns that may cause lead-bearing substance exposure to one or more children age 6 years and under shall be collected.

(C) Each surface with deteriorated lead-bearing surface coatings, which is determined using documented methodologies referenced in section (3) of this regulation, and a distinct painting history, shall be tested for the presence of lead. Each other surface determined, using documented methodologies, to be a potential lead hazard and having a distinct painting history, shall also be tested for the presence of lead.

(D) In dwellings, dust samples (either composite or single-surface samples) from the window troughs, sills and floors near friction or impact spots or in areas with deteriorated surface coatings shall be collected in all living areas where one or more child age 6 and under is most likely to come into contact with dust (i.e., children's play room, kitchen, bedrooms and bathrooms).

(E) For multi-family dwellings and child-occupied facilities, the samples required in paragraph (6)(D) shall be taken. In addition, window and floor samples shall be collected in the following locations:

1. Common areas adjacent to the sampled residential dwelling or child-occupied facility; and

2. Other common areas in the building where the risk assessor determines that one or more child age 6 and under is likely to come into contact with dust.

(F) For child-occupied facilities, window and floor dust samples (either composite or single-surface samples) shall be collected in each room, hallway or stairwell utilized by one or more child age 6 and under and in other common areas in the child-occupied facility where the risk assessor determines that one or more child age 6 and under is likely to come into contact with dust.

(G) Soil samples shall be collected and analyzed for lead concentrations in exterior play areas where bare soil is present and at dripline/foundation areas where bare soil is present.

(H) Any paint, dust, or soil sampling or testing shall be conducted using the documented methodologies referenced in section (3) of this regulation.

(I) The risk assessor shall prepare a risk assessment report as described in section (11) of this regulation.

(7) Lead Hazard Screen Risk Assessments.

(A) Background information regarding the physical characteristics of the dwelling or child-occupied facility and occupant use patterns that may cause lead-bearing substance exposure to one or more child age 6 years and under shall be collected.

(B) A visual inspection of the dwelling or child-occupied facility shall be conducted to:

1. Determine if any deteriorated lead-bearing substance is present; and

2. Locate at least two dust sampling locations.

(C) If deteriorated paint is present, each surface with deteriorated paint and a distinct painting history shall be tested for the presence of lead.

(D) In dwellings, two composite dust samples shall be collected, one from the floors and the other from the windows in rooms, hallways or stairwells where one or more child age 6 and under is most likely to come in contact with dust.

(E) In multi-family dwellings and child-occupied facilities, in addition to the floor and window samples required in (7)(D), the risk assessor shall also collect composite dust samples from common areas where one or more child age 6 and under is most likely to come into contact with dust.

(F) Dust, paint and soil sampling shall be conducted using the documented methodologies referenced in section (3) of this regulation.

(G) The risk assessor shall prepare a risk assessment report as required in section (11) of this regulation.

(8) Elevated Blood Lead Level (EBL) Investigation Risk Assessments.

(A) The risk assessor shall have the parents or guardians of the EBL child fill out a questionnaire (see HUD guidelines Table 16.2) prior to sampling. Environmental testing should be linked to the child's history and may include a prior residence or other areas frequented by the child.

(B) Background information regarding the physical characteristics of the dwelling or child-occupied facility and occupant use patterns that may cause lead-bearing substance exposure to one or more child age 6 years and under shall be collected.

(C) Each surface on the dwelling itself, furniture or play structures frequented by the child that has deteriorated surface coatings shall be tested for the presence of lead.

(D) Each chewable, impact and friction surface shall be tested for the presence of lead-bearing substances.

(E) Dust samples from areas frequented by the child, including play areas, porches, kitchens, bedrooms, and living and dining rooms shall be collected. Dust samples shall also be collected from automobiles, work shoes, and laundry rooms if occupational lead exposure is a possibility.

(F) Soil samples shall be collected from bare soil areas of play areas, areas near the foundation of the house, and areas from the yard. If the child spends significant time at a park or other public play area, samples should be collected from these areas, unless the area has already been sampled and documented.

(G) If necessary, water samples of the first-drawn water from the tap most commonly used for drinking water, infant formula, or food preparation shall be collected.

(H) All paint, dust, or soil collection and testing shall be conducted using the documented methodologies referenced in section (3) of this regulation.

(I) The risk assessor shall prepare a risk assessment report as required in section (11) of this regulation.

(9) Composite Dust Sampling. Composite dust sampling may only be conducted in the situations specified in sections (6) and (7) of this regulation. If such sampling is conducted, the following conditions shall apply:

(A) Composite dust samples shall consist of at least two (2) samples;

(B) Every component that is being tested shall be included in the sampling; and

(C) Composite dust samples shall not consist of subsamples from more than one type of component.

(10) Sampling Results. Analytical sampling results which are received as a result of having conducted a risk assessment, an EBL investigation risk assessment, or lead hazard screen risk assessment shall be interpreted in accordance with the following for the matrices indicated:

(A) Paint. A paint chip sample which has a lead concentration that exceeds the values indicated below is considered to be a lead-bearing substance.

XRF—1.0 milligrams per square centimeter (mg/cm^2)
Laboratory—1.0 mg/cm^2 or 0.5% by weight (or 5000 parts per million [PPM])

(B) Dust. A dust sample which has a lead concentration that exceeds the values indicated below is considered to be a lead-bearing substance.

Floors—50 micrograms per square foot ($\mu g/ft^2$)
Window Sills—250 $\mu g/ft^2$
Window Troughs—800 $\mu g/ft^2$

(C) Soil. A soil sample which has a lead concentration that exceeds the values indicated below is considered to be a lead-bearing substance.

Bare soil areas when children have access to the site, 400 PPM
Bare soil areas when children do not have access to the site, 2,000 PPM

(D) Water. A water sample which has a lead concentration that exceeds the value indicated below is considered to be a lead-bearing substance.

15 parts per billion (PPB) or 15$\mu g/L$

(11) Reporting and Documentation. The licensed risk assessor shall prepare a risk assessment report which shall include the following information:

(A) Date of risk assessment;

(B) Address of each dwelling or child-occupied facility;

(C) Date dwelling or child-occupied was constructed;

(D) Apartment number, if applicable;

(E) Name, address and telephone number of each owner of each dwelling or child-occupied facility;

(F) Name, signature and license number of the licensed risk assessor conducting the assessment;

(G) Name, address and telephone number of the firm employing each licensed risk assessor, if applicable;

(H) Name, address and telephone number of each recognized laboratory conducting analysis of collected samples;

(I) Results of the visual inspection;

(J) Testing method and sampling procedure for paint analysis employed;

(K) Specific locations of each painted component tested for the presence of lead;

(L) All data collected from on-site testing, including quality control data;

(M) XRF results, including the following (if applicable):

1. XRF manufacturer and model;
2. Serial number of XRF device used during the inspection;
3. Calibration verification from the beginning and end of each residential unit;
4. A copy of the XRF device user's certificate of training provided by the equipment manufacturer;
5. License or registration number of the XRF instrument;
6. A summary that categorizes the XRF results into one of three categories: positive, negative, or inconclusive; and
7. Recommendations for addressing inconclusive XRF results.

(N) All results of laboratory analysis on collected paint, soil and dust samples and the name of each accredited laboratory that conducted the analysis;

(O) Any other sampling results;

(P) Any background information collected pursuant to paragraphs (6)(B), (7)(A), and (8)(B) of this regulation;

(Q) To the extent that they are used as part of the lead-based paint hazard determination, the results of any previous inspections or analyses for the presence of lead-based paint, or other assessments of lead-bearing substance hazards;

(R) A description of the location, type, and severity of identified lead-bearing substance hazard and any other potential lead hazards; and

(S) A description of interim controls and/or abatement options for each identified lead hazard and a suggested prioritization for addressing each hazard. If the use of an encapsulant or enclosure is recommended, the report shall recommend a maintenance and monitoring schedule for the encapsulant or enclosure.

(12) Time Frame for Submission of Reports. The risk assessment report shall be provided to the owner of the property within twenty (20) business days of risk assessment completion.

(13) Report Records Retention. All risk assessment reports shall be kept and maintained by the risk assessor who prepared the report for no fewer than three (3) years. The licensed risk assessor shall make copies of risk assessment reports available to OLLA upon request.

AUTHORITY: sections 701.301, 701.312 and 701.316, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. A proposed rule covering this same material is published in this issue of the ***Missouri Register****.*

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

EMERGENCY RULE

19 CSR 30-70.630 Lead Abatement Work Practice Standards

PURPOSE: This rule delineates the criteria for conducting lead abatement projects in target housing and child-occupied facilities in accordance with standards set forth in sections 701.300 through 701.338, RSMo, and 19 CSR 30-70.600 through 19 CSR 30-70.630.

EMERGENCY STATEMENT: This emergency rule is necessary in order for the Missouri Department of Health to continue to administer and enforce standards for lead-bearing substance activities to protect human health and the environment. Such rule has to be in effect in order for the Environmental Protection Agency to review and authorize the Missouri Department of Health to continue to administer and enforce the standards, regulations and other requirements for lead-bearing substance activities. Upon receipt of the Missouri Department of Health's application and certifica-

tion that the state lead-bearing substance program is at least as protective as the federal program and provides adequate enforcement, the program shall be deemed authorized by the Environmental Protection Agency unless and until the Environmental Protection Agency disapproves the program application or withdraws the program authorization. The application must contain regulations, statutes and other standards regarding the administration and enforcement of this state program. Without emergency promulgation of this rule, as of August 30, 1999, the Environmental Protection Agency will usurp the authority of the state as to the regulation of lead-bearing substance activities. The Missouri Department of Health finds an immediate danger to the public health and welfare and a compelling government interest, which require emergency action. The scope of this rule is limited to the circumstances creating the emergency and complies with the protections extended in the ***Missouri*** *and* ***United States Constitutions****. The Department of Health believes this emergency rule is fair to all interested persons and parties under the circumstances. The emergency rule was filed August 19, 1999, effective August 30, 1999, and expires February 25, 2000.*

(1) Licensure. All persons conducting lead abatement shall be licensed as set forth in sections 701.300 through 701.338, RSMo, and 19 CSR 30-70.110 through 19 CSR 30-70.200. Licensed lead abatement professionals must present, upon request, proof of licensure in the form of the photo identification badge issued by OLLA.

(2) Conflict of Interest. OLLA recommends that any person or firm conducting a lead abatement project should avoid potential conflicts of interest by not providing clearance sampling services, inspection, or risk assessment services for that same abatement project.

(3) Documented Methodologies for Conducting Lead Abatement Projects.

(A) All licensed lead abatement workers and supervisors may use the following documented methodologies, but shall, at a minimum, follow the work practice standards presented in this regulation for conducting lead abatement projects:

1. The US Department of Housing and Urban Development publication entitled, "Guidelines for the Evaluation and Control of Lead-based Paint Hazards in Housing" (HUD Guidelines); and

2. The US Environmental Protection Agency publications entitled "Guidance on Residential Lead-Based Paint, Lead-Contaminated Dust, and Lead-Contaminated Soil"; and "Residential Sampling for Lead: Protocols for Dust and Soil Sampling".

(B) Where a conflict exists between any of the aforementioned informational resources and any federal or state statute or regulation, or any city or county ordinance, the most stringent of these shall be adhered to by licensed lead abatement workers and supervisors.

(4) Notification. Any person or lead abatement contractor conducting a lead abatement project in target housing or in any child-occupied facility shall submit a notification to the department at least ten (10) business days prior to the onset of the lead abatement project.

(A) The notification shall be mailed with a check or money order made payable to the Missouri Department of Health for the nonrefundable fee of twenty-five dollars ($25) to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The notification form provided by the department shall include the following:

1. The street address, city, state, zip code and county of each location where lead abatement will occur;

2. The name, address and telephone number of the property owner;

3. An indication of the type of structure being abated (i.e. single-family or multi-family dwelling and/or child-occupied facility);

4. The date of the onset of the abatement project;

5. The estimated completion date of the abatement project;

6. The work days and hours of operation that the abatement project will be conducted;

7. The name, address, telephone number and license number of the lead abatement contractor;

8. The name and license number of each lead abatement supervisor;

9. The name and license number of each lead abatement worker;

10. The type(s) of abatement strategy(ies) that will be utilized (i.e., encapsulation, replacement, and/or removal); and

11. The signature of each lead abatement supervisor which certifies that all information provided in the project notification is complete and true to the best of the supervisor's knowledge.

(5) Emergency notification. If the lead abatement contractor is unable to comply with the ten (10) day notification period in the event of an emergency situation as defined in 19 CSR 30-70.600, the lead abatement contractor shall:

(A) Notify OLLA by telephone, facsimile, or electronic mail within twenty-four (24) hours of the onset of the lead abatement project; and

(B) Submit the written notification and notification fee as prescribed in section (4) of this regulation no more than five (5) business days after the onset of the lead abatement project.

(6) Re-notification. A re-notification shall be submitted to OLLA at least twenty-four (24) hours prior to any changes from the original project notification.

(A) A re-notification form shall be mailed to the Missouri Department of Health, Office of Lead Licensing and Accreditation, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The re-notification form provided by the department shall include the following:

1. The street address, city, state, zip code and county of each location where abatement will occur;

2. The name, address and telephone number of the property owner;

3. An indication of the type of structure being abated (i.e. single-family or multi-family dwelling and/or child-occupied facility);

4. The name, address, telephone number and license number of the lead abatement contractor;

5. A list of changes to the original notification which may include the following:

A. The date of the onset of the abatement project;

B. The estimated completion date of the abatement project;

C. The work days and hours of operation that the abatement project will be conducted;

D. The name, address, telephone number and license number of the lead abatement contractor;

E. The name and license number of each lead abatement supervisor;

F. The name and license number of each lead abatement worker;

G. The type(s) of abatement strategy(ies) that will be utilized (i.e. encapsulation, replacement, and/or removal); and

6. The signature of the lead abatement supervisor which certifies that all information provided in the project re-notification is complete and true to the best of the supervisor's knowledge.

(7) Occupant Protection Plan.

(A) General Scope: Occupants of dwelling units undergoing lead abatement activities shall be protected from exposure to lead hazards while lead abatement work is being performed. If occupants remain in the dwelling during a lead abatement project, the lead abatement supervisor shall ensure that occupants have safe, uncontaminated access to non-regulated areas. To ensure occupant safety, a written occupant protection plan shall be developed for all abatement projects. The occupant protection plan shall describe the measures and management procedures that will be taken during the abatement to protect the building occupants from exposure to any lead hazards. The purpose of occupant protection planning is to:

1. Evaluate the necessity of removing occupants from the residence during lead abatement activities;

2. Prevent uncontrolled release of dust and debris beyond the abatement work area;

3. Prevent entry of unlicensed individuals into the regulated area; and

4. Ensure that clearance levels have been met prior to reoccupancy by building residents.

(B) The occupant protection plan shall meet the following requirements:

1. Be unique to each lead abatement project;

2. Be developed and implemented prior to commencement of the lead abatement project;

3. Describe the work practices and strategies that will be taken during the lead abatement project to protect the building occupants from exposure to any lead hazards;

4. Be written by the licensed lead abatement supervisor responsible for the project;

5. Include the results of any lead inspections or risk assessments completed prior to the commencement of the lead abatement project;

6. The occupant protection plan shall be provided to an adult occupant of each dwelling or dwelling unit being abated, and the property owner, or property owner's designated representative, prior to the commencement of the lead abatement project; and

7. The occupant protection plan shall be submitted to OLLA with the lead abatement project notification.

(8) Post-Abatement Project Report. A post-abatement project report shall be prepared by a licensed lead abatement supervisor or licensed project designer and shall be provided to the property owner within twenty (20) business days of the abatement project completion. The licensed supervisor or project designer shall make copies of the report available to OLLA upon request. The report shall include the following information:

(A) The project location and address;

(B) The actual start and completion dates of the abatement project;

(C) The name, address, telephone number and license number of the contractor conducting the lead abatement project;

(D) The name and license number of each lead abatement supervisor and/or project designer;

(E) The name and license number of each lead abatement worker;

(F) The name and license number of each lead inspector or risk assessor responsible for clearance testing;

(G) The date and the results of clearance testing, and the name of each NLLAP-accredited laboratory that conducted the analyses; and

(H) A detailed written description of the lead abatement project, including abatement methods used, locations of rooms and or components where abatement occurred, reason for selecting particular abatement methods for each component, and any suggested monitoring of encapsulant or enclosure.

(9) Lead Abatement Project Requirements.

(A) General.

1. A licensed lead abatement supervisor is required for each abatement project and shall be onsite during all work site preparation, abatement activities and during post-abatement cleanup of work areas.

2. The lead abatement supervisor, as well as the lead abatement contractor employing that lead abatement supervisor, shall ensure that all abatement project activities are conducted according to the requirements of these work practice standards for conducting lead-bearing substance activities (19 CSR 30-70.600 through 19 CSR 30-70.630) and all federal, state and local laws, regulations or ordinances pertaining to lead-bearing substance activities.

3. The lead abatement supervisor shall have on site a list of all licensed lead abatement workers, which shall include their names and license numbers, working on the current project.

4. All abatement project activities shall be performed by persons currently licensed by OLLA as lead abatement workers and/or lead abatement supervisors. These people shall present, upon request, proof of licensure in the form of the photo identification badge issued by OLLA.

5. A written occupant protection plan shall be developed prior to all abatement projects according to section (7) of this regulation.

6. Access to the regulated area shall be limited to OLLA licensed lead professionals or department-authorized persons.

7. All waste generated from a lead-based paint abatement project shall be disposed of in accordance with the requirements of EPA, Missouri Department of Natural Resources and any other applicable federal, state and local laws.

(B) Prohibited Lead Abatement Project Strategies. The following lead abatement project strategies are prohibited:

1. Open-flame burning or torching of lead-bearing substances;

2. Machine sanding or grinding or abrasive blasting or sandblasting of lead-bearing substances without containment and HEPA-vacuum exhaust control;

3. Hydroblasting or pressurized water washing of lead-bearing substances without containment and water collection and filtering;

4. Heat guns operating above 1100°F;

5. Methylene chloride based chemical strippers;

6. Solvents that have flashpoints below 140°F;

7. Dry scraping strategies unless in conjunction with heat guns or around electrical outlets or when treating defective paint spots totaling no more than two (2) square feet in any one room, hallway or stairwell or totaling no more than twenty (20) square feet on exterior surfaces;

8. Enclosure strategies where the barrier is not warranted by the manufacturer to last at least twenty (20) years under normal conditions, or where the primary barrier is not a solid barrier;

9. Encapsulation strategies where the encapsulant is not warranted by the manufacturer to last at least twenty (20) years under normal conditions, or where the encapsulant has been improperly applied; and

10. Exterior abatement project activities when constant wind speeds are greater than ten (10) miles per hour.

(C) Permissible Lead Abatement Project Strategies. Strategies that are permissible for lead abatement projects are as follows: replacement, enclosure, encapsulation, or removal. Any abatement strategy not specified herein shall be submitted to the Missouri Department of Health, Office of Lead Licensing and Accreditation, P.O. Box 570, Jefferson City, Missouri, 65102-0570 for evaluation and approval prior to use.

1. Replacement. When conducting a lead abatement project using the replacement strategy, these minimum requirements shall be met:

A. The site shall be prepared by first establishing a regu-

lated area using fencing, barrier tape or other appropriate barriers. The regulated area shall be defined to prevent unlicensed and/or unauthorized personnel from approaching closer than twenty (20) feet to the replacement operation.

B. Signs shall be posted at all entrances to the regulated area, and shall include the words "WARNING: LEAD AREA, POISON-NO SMOKING OR EATING" in bold lettering not smaller than two inches tall with additional language prohibiting entrance to the regulated area by unauthorized personnel.

C. Any heating and cooling systems within the regulated area shall be shut down and the vents sealed with 6-mil poly to prevent lead dust accumulation within the system.

D. All items shall be cleaned within the regulated area by HEPA vacuuming and/or wet wiping with a cleaning solution. Items shall then be removed from the area, or covered with 6-mil poly and sealed with duct tape.

E. At least one layer of 6-mil, or thicker, poly shall be placed on the floor at the base of the component and extend at least ten (10) feet beyond the perimeter of the component to be replaced.

F. The component, and the area immediately adjacent to the component, shall be thoroughly wetted using a garden sprayer, airless mister, or other appropriate means to reduce airborne dust.

G. After removal of the component, the surface behind the removed component shall be thoroughly wetted to reduce airborne dust.

H. The component shall be wrapped or bagged completely in 6-mil poly and sealed with duct tape to prevent loss of debris or dust.

I. Prior to installing a new component, the area of replacement shall be cleaned by HEPA vacuuming. After replacement is complete, the regulated area shall be cleaned by vacuuming with a HEPA vacuum, wiping down all surfaces with a cleaning solution, rinsing all surfaces, and then HEPA vacuuming the area again. Cleaning shall begin at the end of the work area farthest from the main entrance to the area and from the top to the bottom of the regulated area.

2. Enclosure. When conducting a lead abatement project using the enclosure strategy, these minimum requirements shall be met:

A. The site shall be prepared by first establishing a regulated area using fencing, barrier tape or other appropriate barriers. The regulated area shall be defined to prevent unlicensed and/or unauthorized personnel from approaching closer than twenty (20) feet to the enclosure operation.

B. Signs shall be posted at all entrances to the regulated area, and shall include the words "WARNING: LEAD AREA, POISON-NO SMOKING OR EATING" in bold lettering not smaller than two inches tall with additional language prohibiting entrance to the regulated area by unauthorized personnel.

C. Any heating and cooling systems within the regulated area shall be shut down and the vents sealed with 6-mil poly to prevent lead dust accumulation within the system.

D. All items shall be cleaned within the regulated area by HEPA vacuuming and/or wet wiping with a cleaning solution. Items shall then be removed from the area or covered with 6-mil poly and sealed with duct tape.

E. At least one layer of 6-mil, or thicker, poly shall be placed on the floor at the base of the component and extend at least ten (10) feet beyond the perimeter of the component to be enclosed.

F. The surface to be enclosed shall be labeled (behind the enclosure), horizontally and vertically, approximately every two (2) feet with a warning, "Danger: Lead-Based Paint", in permanent ink.

G. The enclosure material shall be applied directly onto the painted surface, or a frame shall be constructed of wood or metal, using nails, staples, or screws. Glue may be used in conjunction with the aforementioned fasteners, but not alone.

H. The material used for the enclosure barrier shall be solid and rigid enough to provide adequate protection. Materials including, but not limited to, wall papers, contact paper, films, folding walls, and drapes do not meet this requirement.

I. Enclosure systems and their adhesives shall be designed to last at least twenty (20) years.

J. The substrate or building structure to which the enclosure is fastened shall be sufficient structurally to support the enclosure barrier for at least twenty (20) years. Deterioration such as mildew, water damage, dry rot, termite damage or any significant structural damage may impair the enclosure from remaining dust tight.

K. Pre-formed steel, aluminum, vinyl or other construction material may be used for window frames, exterior siding, trim casings, column enclosures, moldings, or other similar components if they can be sealed dust tight.

L. A material equivalent to 1/4" rubber or vinyl may be used to enclose stairs.

M. The seams, edges, and fastener holes shall be sealed with caulk or other sealant, providing a dust tight system.

N. All equipment used in the regulated area shall be thoroughly cleaned with a cleaning solution and/or vacuumed with a HEPA vacuum prior to removal from the regulated area.

O. Prior to clearance, the installed enclosure and surrounding regulated area shall be cleaned by vacuuming with a HEPA vacuum, wiping down all surfaces with a cleaning solution, rinsing all surfaces, and then HEPA vacuuming the area again. Cleaning shall begin at the end of the work area farthest from the main entrance to the area and from the top to the bottom of the regulated area.

P. It is recommended that a visual evaluation of the enclosure's integrity be conducted and documented by the building owner or the building owner's representative at least every year or immediately after any fire, water, or structural damage. In child-occupied facilities, it is recommended that a licensed risk assessor inspect all enclosures every three (3) years, or whenever the owner's visual evaluation indicates a potential for increased lead hazard exposure.

3. Encapsulation.

A. The encapsulation strategy of lead abatement shall not be used on the following:

1. Friction surfaces - such as window sashes and parting beads, door jambs and hinges, floors, and door thresholds.

2. Deteriorated components - including rotten wood, rusted metal, spalled or cracked plaster, or loose masonry.

3. Impact surfaces, such as doors stops, window wells and headers.

4. Deteriorated surface coatings such that the adhesion or cohesion of the surface coating is uncertain or indeterminable.

5. Incompatible coatings.

B. When conducting a lead abatement project using the encapsulation strategy, these minimum requirements shall be met:

1. Encapsulant selection shall be limited to those that are warranted by the manufacturer to last for at least twenty (20) years and comply with fire, health and environmental regulations.

2. Surfaces to be encapsulated shall have sound structural integrity with no loose, chipping, peeling, or chalking paint and no dust accumulation that can not be cleaned, and shall be prepared and applied according to the manufacturer's recommendations.

3. The site shall be prepared by first establishing a regulated area using fencing, barrier tape or other appropriate barriers. The regulated area shall be designated as to prevent unlicensed and/or unauthorized personnel from approaching closer than twenty (20) feet to the encapsulation operation.

4. Signs shall be posted at all entrances to the regulated area, and shall include the words "WARNING: LEAD AREA,

POISON-NO SMOKING OR EATING" in bold lettering not smaller than two inches tall with additional language prohibiting entrance to the regulated area by unauthorized personnel.

5. Any heating and cooling systems within the regulated area shall be shut down and the vents sealed with 6-mil poly to prevent lead dust accumulation within the system.

6. All items shall be cleaned within the regulated area by HEPA vacuuming and/or wet wiping with a cleaning solution. Items shall then be removed from the area, or covered with 6-mil poly sheeting and sealed with duct tape.

7. At least one layer of 6-mil, or thicker, poly shall be placed on the ground at the base of the component and extend at least ten (10) feet beyond the perimeter of the component to be encapsulated.

8. A patch test shall be conducted prior to general application to determine the adhesive and cohesive properties of the encapsulant on the surface to be encapsulated (See the HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing, Chapter 13).

9. After the manufacturer's recommended curing time, the entire encapsulated surface shall be inspected by a licensed lead abatement supervisor or a licensed project designer. Any unacceptable areas shall be evaluated to determine if a complete failure of the system is indicated, or whether the system can be patched or repaired. Unacceptable areas are evidenced by delamination, wrinkling, blistering, cracking, cratering, and bubbling of the encapsulant.

10. After the encapsulation is complete, the regulated area shall be cleaned by vacuuming with a HEPA vacuum, wiping down all surfaces with a cleaning solution, rinsing all surfaces, and then HEPA vacuuming the area again. Cleaning shall begin at the end of the work area farthest from the main entrance to the area and from the top to the bottom of the regulated area.

11. All equipment used in the regulated area shall be thoroughly cleaned with a cleaning solution and/or vacuumed with a HEPA vacuum prior to removal from the regulated area.

12. It is recommended that a visual evaluation of the encapsulant's integrity be conducted and documented by the building owner or the building owner's representative at least every year or immediately after any fire, water, or structural damage. In child-occupied facilities, it is recommended that a licensed risk assessor inspect all enclosures every three (3) years, or whenever the owner's visual evaluation indicates a potential for increased lead hazard exposure.

4. Removal.

A. Acceptable removal strategies include:

1. Manual Wet Strategies - Manual wet scraping or manual wet sanding is acceptable for removal of lead surface coatings.

2. Mechanical Removal Strategies - Power tools that are HEPA-shrouded or locally exhausted are acceptable removal strategies for lead surface coatings. HEPA-shrouded or exhausted mechanical abrasion devices such as sanders, saws, drills, rotopeens, vacuum blasters, and needle guns are acceptable.

3. Chemical Removal Strategies - Chemical strippers shall be used in compliance with manufacturer's recommendations.

4. Soil Abatement - When soil abatement is conducted, the lead-bearing soil shall be removed, tilled, or permanently covered in place as indicated in the following paragraphs.

(i) Removed soil shall be replaced with fill material containing no more than 100 ppm of total lead. If the fill material exceeds 100 ppm total lead, the fill material will be acceptable only if the lead solubility is less than 5 ppm. Soil that is removed shall not be reused as topsoil in another residential yard or child-occupied facility.

(ii) If tilling is selected, soil in a child-accessible area shall be tilled to a depth which results in no more than 400 ppm total lead of the homogenized soil, or other concentrations approved by the department. Soil in an area not accessible to children shall be tilled to a depth which results in no more than 2000 ppm total lead of the homogenized soil or other concentrations approved by the department.

(iii) Permanent soil coverings include solid materials such as pavement or concrete, which separate the soil from human contact. Grass, mulch and other landscaping materials are not considered permanent soil covering.

(iv) Soil abatement shall be conducted to prevent lead contaminated soil from being blown from the site and/or from being carried away by water run-off or through percolation to ground water.

B. Interior Removal. When conducting a lead abatement project using the removal strategy on interior surfaces, these minimum requirements shall be met:

1. The site shall be prepared by first establishing a regulated area using fencing, barrier tape or other appropriate barriers. The regulated area shall be defined to prevent unlicensed and/or unauthorized personnel approaching closer than twenty (20) feet to the removal operation.

2. Signs shall be posted at all entrances to the regulated area, and shall include the words "WARNING: LEAD AREA, POISON-NO SMOKING OR EATING" in bold lettering not smaller than two inches tall with additional language prohibiting entrance to the regulated area by unauthorized personnel.

3. Any heating and cooling systems within the regulated area shall be shut down and the vents sealed with 6-mil poly to prevent lead dust accumulation within the system.

4. All items within the regulated area shall be cleaned by HEPA vacuuming and/or wet wiping with a cleaning solution. Items shall then be removed from the area, or covered with 6-mil poly and sealed with duct tape.

5. All windows below and within the regulated area shall be closed.

6. Critical barrier containment shall be constructed.

7. At least two layers of 6-mil, or thicker, poly shall be placed on the floor at the base of the component and extend at least ten (10) feet beyond the perimeter of the component being abated (removal by the chemical strategy may require chemical resistant floor cover; follow manufacturer's recommendations).

8. All equipment used in the regulated area shall be thoroughly cleaned with a cleaning solution and/or vacuumed with a HEPA vacuum prior to removal from the regulated area.

9. At the end of each work shift, the top layer of 6-mil poly shall be removed and used to wrap and contain the debris generated by the shift. The 6-mil poly shall then be sealed with duct tape and kept in a secured area until final disposal. The second layer of 6-mil poly shall be HEPA-vacuumed, left in place and used during the next shift. A single layer of 6-mil poly shall be placed on this remaining poly before abatement resumes.

10. After the removal is complete, the regulated area shall be cleaned by vacuuming with a HEPA vacuum, wiping down all surfaces with a cleaning solution, rinsing all surfaces, and then HEPA vacuuming the area again. Cleaning shall begin at the end of the work area farthest from the entrance to the area and from the top to the bottom of the regulated area.

C. Exterior Removal. When conducting a lead abatement project using the removal strategy on exterior surfaces, these minimum requirements shall be met:

1. The site shall be prepared by first establishing a regulated area using fencing, barrier tape or other appropriate barriers. The regulated area shall be designated as to prevent unlicensed and/or unauthorized personnel from approaching closer than twenty (20) feet to the removal operation.

2. Signs shall be posted at all entrances to the regulated area, and shall include the words "WARNING: LEAD AREA, POISON-NO SMOKING OR EATING" in bold lettering not smaller than two inches tall with additional language prohibiting

entrance to the regulated area by unauthorized personnel.

3. All movable items shall be moved twenty (20) feet from working surfaces. Items that cannot be readily moved twenty (20) feet from working surfaces shall be covered with 6-mil poly and sealed with duct tape.

4. At least one layer of 6-mil, or thicker, poly shall be place on the ground and extend at least ten (10) feet from the abated surface plus another five (5) feet out for each additional ten (10) feet in surface height over twenty (20) feet. In addition, the poly shall:

(i) Be securely attached to the side of the building with cover provided to all ground plants and shrubs in the regulated area;

(ii) Be protected from tearing or perforating;

(iii) Contain any water, including rainfall, which may accumulate during the abatement; and

(iv) Be weighted down to prevent disruption by wind gusts.

5. All windows in the regulated area and all windows below and within twenty (20) feet of working surfaces shall be closed. It is recommended that the windows of adjacent structures within twenty (20) feet also be closed.

6. Work shall cease if constant wind speeds are greater than ten (10) miles per hour.

7. Work shall cease and cleanup shall occur if rain begins.

8. All equipment used in the regulated area shall be thoroughly cleaned with a cleaning solution and/or vacuumed with a HEPA vacuum prior to removal from the regulated area.

9. The regulated area shall be HEPA vacuumed and cleaned of lead-based paint chips, poly and other debris generated by the abatement project work at the end of each workday. Debris shall be kept in a secured area until final disposal.

(10) Post-Abatement Clearance Procedures. The following post-abatement clearance procedures shall be performed only by a licensed lead inspector or risk assessor:

(A) Following abatement, a visual inspection shall be performed to determine if deteriorated painted surfaces and/or visible amounts of dust, debris or residue are still present. If deteriorated painted surfaces or visible amounts of dust, debris or residues are present, these conditions must be eliminated prior to the continuation of the clearance procedures.

(B) Following the visual inspection and any post-abatement cleanup required by paragraph (10)(A) of this regulation, clearance sampling for lead-contaminated dust and/or soil shall be conducted.

(C) Dust and soil sampling shall be conducted using the documented methodologies referenced in section (3) of this regulation.

(D) Dust samples for clearance purposes shall be taken a minimum of 1 hour after completion of final post-abatement cleanup activities.

(E) The licensed lead inspector or risk assessor shall compare the residual lead level from each dust and/or soil sample with clearance levels specified in section (11) of this regulation for lead in dust on floors, windows and soil.

(F) If the lead levels in a clearance dust sample exceed the clearance levels, all the components represented by the failed dust sample shall be recleaned and tested until clearance levels are met.

(G) If the lead levels in a soil clearance sample exceed the clearance levels, the soil shall be abated until a composite soil sample meets clearance levels.

(H) In a multi-family dwelling with similarly constructed and maintained residential dwellings, random sampling for the purposes of clearance may be conducted provided:

1. The licensed individuals who abate or clean the residential dwellings do not know which residential dwelling will be selected for the random sample.

2. A sufficient number of residential dwellings are selected for dust sampling to provide a 95 percent level of confidence that no more than 5 percent or 50 of the residential dwellings (whichever is smaller) in the randomly sampled population exceed the appropriate clearance levels.

3. The randomly selected residential dwellings shall be sampled and evaluated for clearance according to the procedures found in section (10)(A) through (10)(G) of this regulation.

(11) Clearance Levels. For each respective media, the following clearance levels shall be met for a lead-abatement project to be considered complete (if background lead levels are lower than the following clearance levels, clearance is not complete until background values are met):

(A) Dust samples

Media	Clearance Level
Floors	50 $\mu g/ft^2$
Interior window sills	250 $\mu g/ft^2$
Window troughs	800 $\mu g/ft^2$

(B) Soil samples

Media	Clearance Level
Bare soil (dwelling perimeter and yard)	2000 ppm
Bare soil (small high contact areas, such as sandboxes and gardens)	400 ppm

AUTHORITY: sections 701.301, 701.309, 701.312 and 701.316 RSMo Supp. 1998. Emergency rule filed August 19, 1999, effective August 30, 1999, expires February 25, 2000. A proposed rule covering this same material is published in this issue of the ***Missouri Register****.*

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

EMERGENCY RULE

19 CSR 30-70.640 Project Notification for Industrial Lead Abatement Projects

PURPOSE: This rule delineates the procedure for filing an industrial lead abatement project notification with the Missouri Department of Health, Office of Lead Licensing and Accreditation.

EMERGENCY STATEMENT: This emergency rule is necessary in order for the Missouri Department of Health to continue to administer and enforce standards for lead-bearing substance activities to protect human health and the environment. Such rule has to be in effect in order for the Environmental Protection Agency to review and authorize the Missouri Department of Health to continue to administer and enforce the standards, regulations and other requirements for lead-bearing substance activities. Upon receipt of the Missouri Department of Health's application and certification that the state lead-bearing substance program is at least as protective as the federal program and provides adequate enforcement, the program shall be deemed authorized by the Environmental Protection Agency unless and until the Environmental Protection Agency disapproves the program application or withdraws the program authorization. The application

*must contain regulations, statutes and other standards regarding the administration and enforcement of this state program. Without emergency promulgation of this rule, as of August 30, 1999, the Environmental Protection Agency will usurp the authority of the state as to the regulation of lead-bearing substance activities. The Missouri Department of Health finds an immediate danger to the public health and welfare and a compelling government interest, which require emergency action. The scope of this rule is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri** and **United States Constitutions**. The Department of Health believes this emergency rule is fair to all interested persons and parties under the circumstances. The emergency rule was filed August 19, 1999, effective August 30, 1999, and expires February 25, 2000.*

(1) Notification. Any person or entity conducting an industrial lead abatement project shall submit a notification to the department at least ten (10) business days prior to the onset of the lead abatement project.

(A) The notification shall be mailed with a check or money order made payable to the Missouri Department of Health for the nonrefundable fee of twenty-five dollars ($25) to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The notification form provided by the department shall include the following:

1. The street address, city, state, zip code and county of each location where abatement will occur;
2. The name, address and telephone number of the property owner;
3. An indication of the type of structure being abated (i.e. bridge, superstructure or other structure that is not a dwelling or child-occupied facility);
4. The date of the onset of the abatement project;
5. The estimated completion date of the abatement project;
6. The work days and hours of operation that the abatement project will be conducted;
7. The name, address, telephone number and license number of the lead abatement contractor;
8. The name and license number of each lead abatement supervisor;
9. The name and license number of each lead abatement worker;
10. The type(s) of abatement strategy(ies) that will be utilized (i.e., encapsulation, replacement, and/or removal); and
11. The signature of each lead abatement supervisor which certifies that all information provided in the project notification is complete and true to the best of the supervisor's knowledge.

(2) Emergency notification. If the lead abatement contractor is unable to comply with the ten (10) day notification period in the event of an emergency situation as defined in 19 CSR 30-70.600, the lead abatement contractor shall:

(A) Notify OLLA by telephone, facsimile, or electronic mail within twenty-four (24) hours of the onset of the lead abatement project; and

(B) Submit the written notification and notification fee as prescribed in section (1) of this regulation no more than five (5) business days after the onset of the lead abatement project.

(3) Re-notification. A re-notification shall be submitted to OLLA at least twenty-four (24) hours prior to any changes from the original project notification.

(A) A re-notification form shall be mailed to the Missouri Department of Health, Office of Lead Licensing and Accreditation, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The re-notification form provided by the department shall include the following:

1. The street address, city, state, zip code and county of each location where abatement will occur;
2. The name, address and telephone number of the property owner;
3. An indication of the type of structure being abated (i.e. bridge, superstructure or other structure that is not a dwelling or child-occupied facility);
4. The license number of the lead abatement contractor;
5. A list of changes to the original notification which may include the following:

A. The date of the onset of the abatement project;

B. The estimated completion date of the abatement project;

C. The work days and hours of operation that the abatement project will be conducted;

D. The name, address, telephone number and license number of the lead abatement contractor;

E. The name and license number of each lead abatement supervisor;

F. The name and license number of each lead abatement worker;

G. The type(s) of abatement strategy(ies) that will be utilized (i.e. encapsulation, replacement, and/or removal); and

6. The signature of the lead abatement supervisor which certifies that all information provided in the project notification is complete and true to the best of the supervisor's knowledge.

*AUTHORITY: sections 701.301, 701.309 and 701.312, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. A proposed rule covering this same material is published in this issue of the **Missouri Register**.*

Under this heading will appear the text of proposed rules and changes. The notice of proposed rulemaking is required to contain an explanation of any new rule or any change in an existing rule and the reasons therefor. This is set out in the Purpose section with each rule. Also required is a citation to the legal authority to make rules. This appears following the text of the rule, after the word "Authority."

Entirely new rules are printed without any special symbology under the heading of the proposed rule. If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission. Rules which are proposed to be amended will have new matter printed in boldface type and matter to be deleted placed in brackets.

An important function of the *Missouri Register* is to solicit and encourage public participation in the rulemaking process. The law provides that for every proposed rule, amendment or rescission there must be a notice that anyone may comment on the proposed action. This comment may take different forms.

If an agency is required by statute to hold a public hearing before making any new rules, then a Notice of Public Hearing will appear following the text of the rule. Hearing dates must be at least 30 days after publication of the notice in the *Missouri Register.* If no hearing is planned or required, the agency must give a Notice to Submit Comments. This allows anyone to file statements in support of or in opposition to the proposed action with the agency within a specified time, no less than 30 days after publication of the notice in the *Missouri Register*.

An agency may hold a public hearing on a rule even though not required by law to hold one. If an agency allows comments to be received following the hearing date, the close of comments date will be used as the beginning day in the 90-day-count necessary for the filing of the order of rulemaking.

If an agency decides to hold a public hearing after planning not to, it must withdraw the earlier notice and file a new notice of proposed rulemaking and schedule a hearing for a date not less than 30 days from the date of publication of the new notice.

Proposed Amendment Text Reminder:
Boldface text indicates new matter.
[Bracketed text indicates matter being deleted.]

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 195—Division of *[Job Development and Training]* ***Workforce Development***
Chapter 5—General Rules, Individual Training Account Program

PROPOSED RULE

4 CSR 195-5.010 Purpose; Business Eligibility

PURPOSE: The Department of Economic Development, Division of Workforce Development has the responsibility to administer the Individual Training Account Program and to approve or disapprove applications for this program. This proposed rule sets out the goals of the program and establishes guidelines for a business's eligibility for benefits under this program.

(1) The Individual Training Account Program provides assistance to eligible businesses located in Missouri for the training or retraining activities designed to upgrade skills of current or potential employees.

(A) Through educational programs, businesses are reimbursed in the form of tax credits for costs associated with upgrade training to prepare existing or potential employees for higher skilled positions.

(B) A special emphasis shall be placed on trainees with obsolete or inadequate job skills.

(C) Job training programs shall attempt to prepare employed workers for positions that remain unfilled or that may be created by current or potential employers.

(2) In order to be eligible to receive assistance through the Individual Training Account Program, an employer must apply to the Division of Workforce Development (DWD) using forms prescribed by the DWD and providing all information required. An employer also must be liable for taxes incurred pursuant to the provisions of Chapter 143, RSMo (income tax) or Chapter 148, RSMo (taxation of financial institutions), and must be located within a distressed community as defined by section 135.530, RSMo to be eligible for participation in the program.

(A) The DWD may approve or disapprove an application based on its economic impact on the community and its eligible employees. Factors to be considered before approving an application include, but are not limited to:

1. The type of industry requesting assistance;
2. The company's total employment history in Missouri during the previous three years prior to the time of application;
3. The occupations, job duties and requirements, and respective wage rates; and
4. The type of training and the reasonableness of the training costs.

(B) If the business is covered by a collective bargaining agreement, no training project will be approved without written consultation from the appropriate local labor organization.

1. The employer shall send a request for written comments by certified mail, return receipt requested, to the bargaining agent for the appropriate local labor organization. The request shall specify that, if no comments are received by the DWD within fifteen (15) days of the bargaining agent's receipt of the request, the employer will assume the bargaining agent consents to the proposed training.
2. An employee that is promoted into a job that replaces or supplants an existing employee engaged in an authorized work stoppage is not eligible for the program.
3. An employee that is promoted into an occupation affected by an active layoff at the time of application or up to three hundred sixty-five (365) days prior to application, is not eligible for the program.

AUTHORITY: sections 620.1400, 620.1410, 620.1440 and 620.1460, RSMo Supp. 1998. Original rule filed Aug. 27, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the

Department of Economic Development, Division of Workforce Development, Individual Training Account Program, P.O. Box 1087, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 195—Division of *[Job Development and Training]* *Workforce Development*
Chapter 5—General Rules, Individual Training Account Program

PROPOSED RULE

4 CSR 195-5.020 Application to Participate and Qualifications for Tax Credits

PURPOSE: This proposed rule sets out the process for an employer to participate in the Individual Training Account Program, and sets out how the employer makes subsequent application for tax credits after employee training is complete. This proposed rule also provides guidance as to what expenses qualify for tax credits.

(1) In order to participate in the Individual Training Account Program, an employer must submit an employer notification request using forms prescribed by the Division of Workforce Development (DWD) providing all information required to the DWD. The employer notification shall include, but is not limited to, the following:

(A) Names and occupations of employees to be trained;

(B) The trainees' social security numbers;

(C) The date of hire or anticipated date of hire of the trainees and corresponding wage rates;

(D) The name and location of the training provider(s);

(E) The dates the training will occur for each trainee;

(F) A description of the training to be provided; and

(G) The company's Unemployment Insurance Identification Number.

(2) Training may begin after the notification is received and given preliminary approval by the DWD.

(A) Tax credits can only be claimed for training approved by the DWD.

(B) Training for each trainee cannot exceed two (2) calendar years.

(C) A maximum credit that can be claimed for each trainee is the lesser of fifty percent (50%) of the actual training costs or one thousand five hundred dollars ($1,500) per year.

(3) In order to receive tax credits for upgrade training, an employer must submit a Tax Credit Request Form to the DWD.

(A) The employer must submit the following with the Tax Credit Request Form:

1. Verification from the training provider that the employee successfully completed training;

2. Documentation satisfactory to the DWD that the employee has increased their wage rates. Documentation of this may include, but is not limited to, copies of a payroll register;

3. Documentation satisfactory to the DWD that the employee has been employed in a new, full-time position with the employer for at least three (3) months; and

4. Documentation satisfactory to the DWD of the employee's responsibilities in their new position and a brief description of how these have increased from the employee's pretraining position.

(B) The DWD will verify the information on the Tax Credit Request Form, and notify the Department of Revenue.

(4) The employer/recipient may assign, sell or transfer, in whole or in part, the Individual Training Account Tax Credits.

(A) To perfect the transfer, the assignor (person selling the tax credits) shall provide written notice to DWD of the assignor's intent to transfer the tax credits to the assignee, the date the transfer is effective, the assignee's name and address, the assignee's tax period and the amount of tax credits to be transferred.

(B) The assignee shall provide written notice to DWD specifying the number of consecutive tax periods the transferred tax credits are to be claimed; except that, the number of tax periods during which the assignee may subsequently claim the tax credits shall not exceed five (5) tax periods less the number of tax periods the assignor previously claimed or held the tax credits before the transfer occurred.

(5) For the purpose of determining the amount of tax credits authorized, eligible training costs include tuition, instruction, curriculum design, training materials, the leasing of classroom space or training equipment, and other related training expenses that do not exceed the prevailing rates.

(A) Eligible training providers are local educational institutions that are publicly or privately funded and certified by the Department of Higher Education or the Department of Elementary and Secondary Education.

(B) The purchase of classroom facilities, space or training equipment are not eligible costs.

AUTHORITY: sections 620.1410, 620.1420, 620.1430, 620.1440 and 620.1460, RSMo Supp. 1998. Original rule filed Aug. 27, 1999.

PUBLIC ENTITY COST: This proposed rule is estimated to cost the Department of Economic Development, Division of Workforce Development, the administrating state agency for this tax credit program, approximately $56,490.16 annually. This proposed rule is estimated to cost the Department of Revenue approximately $6,000,000 annually as these tax credits can be applied directly to the state tax liabilities incurred by the taxpayers receiving the credits. For a detailed analysis of these costs, see the accompanying Public Entity Fiscal Note.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Economic Development, Division of Workforce Development, Individual Training Account Program, P.O. Box 1087, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

FISCAL NOTE
PUBLIC ENTITY COST

I. RULE NUMBER

Title: 4 – Department of Economic Development

Division: 195 – Division of Workforce Development

Chapter: 5 – General Rules, Individual Training Account Program

Type of Rulemaking: Proposed Rule

Rule Number and Name: 4 CSR 195-5.020 Application to Participate and Qualifications for Tax Credits

Prepared August 23, 1999 by Department of Economic Development in conjunction with the Division of Workforce Development, Individual Training Account Program

II. SUMMARY OF FISCAL IMPACT

AGENCY AFFECTED	ESTIMATED COST OF COMPLIANCE
Department of Economic Development – Division of Workforce Development	$56,490.16 annually
Department of Revenue	$6,000,000.00 annually

III. WORKSHEET

CATEGORY OF ALLOCATION	ANNUAL COST
Personal Service & Fringe Benefits (1.5 FTE)	$50,210.16
Expense & Equipment (Communications)	$1,310.00
Expense & Equipment (Office Expenses)	$2,100.00
Expense & Equipment (Facilities)	$1,370.00
Expense & Equipment (Travel)	$1,500.00
TOTAL	**$56,490.16**

IV. ASSUMPTIONS

Personal service costs are incurred for one full-time program administrator and one half-time clerical support staff. Administrative staff expenses are incurred for implementing and managing the application process, evaluating applications for eligibility and compliance, working with interested businesses to aid in access and use of program benefits, supervising

support staff, issuing program benefits, maintaining database, and other miscellaneous program administration services. Support staff expenses are incurred for clerical support duties such as telephone, word processing, inputting information, mailing, providing applicants with general information about the program and other miscellaneous support staff services.

Expense and equipment costs are broken out into four categories: (1) Communications which include postage, telephone and other communications; (2) Office Expenses which include printing, supplies, miscellaneous operating expenses, equipment and equipment maintenance and repair; (3) Facilities which includes office space and maintenance; and (4) Travel.

The cost to the Missouri Department of Revenue assumes that all $6,000,000 in tax credits allocated for this program annually will be applied toward the tax debts of the taxpayers claiming the credits.

The duration of the rule cannot be accurately estimated, as this program as no overall cap and no sunset clause. Therefore, the estimates presented in this fiscal note are based on annual expenses. Aggregate costs for a certain number of years can be estimated by multiplying the total annual costs by the number of years desired and adding an annual inflation factor of 2%.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 195—Division of *[Job Development Training] Workforce Development*
Chapter 5—General Rules, Individual Training Account Program

PROPOSED RULE

4 CSR 195-5.030 Employee/Trainee Eligibility

PURPOSE: This proposed rule establishes guidelines for determining the eligibility of certain employees for training under the Individual Training Account Program, and clarifies when successful completion of the training program qualifies the employer to receive tax credits for the training activity.

(1) An eligible trainee must be a full- or part-time employed worker whose salary is equal to or less than two hundred percent (200%) of the present federal poverty level.

(A) Part-time employed workers must average a minimum of twenty (20) hours per week during the training period.

(B) A full-time position is defined as a job that averages a minimum of thirty-five (35) or more hours a week.

(2) Tax credits may not be claimed until a trainee has successfully completed training and has been employed for a minimum of three (3) months in the upgraded, full-time, permanent position. Tax credits may only be claimed by companies for employees on their respective payrolls.

(A) The upgraded position must offer the same benefits and comparable pay rates as other workers in the same occupation in the labor market area.

(B) The upgraded position assumed by the trainee upon completion of training must be consistent within a career pattern of advancement.

(C) Successful completion of training requires a showing that the employee has attained higher earnings, job advancement, and increased skill proficiency.

1. The higher wage rate shall be in addition to normal cost-of-living pay increases.

2. The wage rate must be equal to or higher than the average area wage rate for similar occupations.

3. The upgrade position must offer a minimum of fifty-one percent (51%) employer-funded medical benefits to the employee.

(D) Upgrade training is the progressive development of skills associated with a defined set of work processes.

AUTHORITY: sections 620.1410, 620.1420, 620.1440 and 620.1460, RSMo Supp. 1998. Original rule filed Aug. 27, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Economic Development, Division of Workforce Development, Individual Training Account Program, P.O. Box 1087, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

PROPOSED RESCISSION

4 CSR 240-2.010 Definitions. This rule defined terms used in the rules comprising Chapter 2, Practice and Procedure, and supplemented those definitions found in Chapter 386 of the *Missouri Revised Statutes*.

PURPOSE: This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.

AUTHORITY: section 386.410, RSMo Supp. 1997. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Amended: Filed June 9, 1987, effective Nov. 12, 1987. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Amended: Filed Aug. 17, 1998, effective March 30, 1999. Rescinded: Filed Aug. 24, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-108 and be filed with an original and fourteen copies. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

PROPOSED RULE

4 CSR 240-2.010 Definitions

*PURPOSE: This rule defines terms used in the rules comprising Chapter 2, Practice and Procedure, and supplements those definitions found in Chapter 386 of the **Missouri Revised Statutes**.*

(1) Applicant means any person, as defined herein, or public utility on whose behalf an application is made.

(2) Certificate of service means a document showing the caption of the case, the name of the party served, the date and manner of service, and the signature of the serving party or attorney.

(3) Commission means the Missouri Public Service Commission as created by Chapter 386 of the *Missouri Revised Statutes*.

(4) Commissioner means one (1) of the members of the commission.

(5) Commission staff means all personnel employed by the commission whether on a permanent or contractual basis who are not attorneys in the general counsel's office, who are not members of the commission's research department, or who are not law judges.

(6) Complainant means the commission, any person, corporation, municipality, political subdivision, the Office of the Public Counsel, the commission staff through the general counsel, or public utility who files a complaint with the commission.

(7) Corporation includes a corporation, company, association, or joint stock company or association, or any other entity created by statute which is allowed to conduct business in the state of Missouri.

(8) General counsel means the attorney who serves as counsel to the commission and includes the general counsel and all other attorneys who serve in the office of the general counsel.

(9) Highly confidential information may include material or documents relating directly to specific customers; employee-sensitive information; marketing analyses or other market-specific information relating to services offered in competition with others; reports, work papers or other documentation related to work produced by internal or external auditors or consultants; strategies employed, or to be employed, or under consideration in contract negotiations.

(10) Oath means attestation by a person signifying that he or she is bound in conscience and by the laws regarding perjury, either by swearing or affirmation to tell the truth.

(11) Party includes any applicant, complainant, petitioner, respondent, intervenor or public utility in proceedings before the commission. Commission staff and the public counsel are also parties unless they file a notice of their intention not to participate within the period of time established for interventions by commission rule or order.

(12) Person includes a natural person, corporation, municipality, political subdivision, state or federal agency, and a partnership.

(13) Pleading means any application, complaint, petition, answer, motion, or other similar written document, which is not a tariff or correspondence, and which is filed in a case. A brief is not a pleading under this definition.

(14) Political subdivision means any township, city, town, village, and any school, road, drainage, sewer and levee district, or any other public subdivision, public corporation or public quasi-corporation having the power to tax.

(15) Presiding officer means a commissioner, or a law judge licensed to practice law in the state of Missouri and appointed by the commission to preside over a case.

(16) Public counsel means the Office of Public Counsel as created by the Omnibus State Reorganization Act of 1974, and includes the assistants who represent the public before the commission.

(17) Proprietary information may include trade secrets, as well as confidential or private technical, financial and business information.

(18) Public utility includes every pipeline corporation, gas corporation, electrical corporation, telecommunications corporation, water corporation, heat or refrigeration corporation, sewer corporation, any joint municipal utility commission pursuant to section 386.020, RSMo which is regulated by the commission, or any other entity described by statute as a public utility which is to be regulated by the commission.

(19) Respondent means any person as defined herein or public utility subject to regulation by the commission against whom any complaint is filed.

(20) Rule means all of these rules as a whole or the individual rule in which the word appears, whichever interpretation is consistent with the rational application of this chapter.

(21) Settlement officer means a presiding officer who has been delegated to facilitate the settlement of a case.

(22) Schedule means any attachment, table, supplement, list, output, or any other document affixed to an exhibit.

AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Amended: Filed June 9, 1987, effective Nov. 12, 1987. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Amended: Filed Aug. 17, 1998, effective March 30, 1999. Rescinded and readopted: Filed Aug. 24, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-108 and be filed with an original and fourteen copies. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

PROPOSED RULE

4 CSR 240-2.015 Waiver of Rules

PURPOSE: This rule defines when the rules in this chapter may be waived.

(1) A rule in this chapter may be waived by the commission for good cause.

AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed Aug. 24, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-109 and be filed with an original and fourteen copies. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

PROPOSED RESCISSION

4 CSR 240-2.040 Practice Before the Commission. This rule set forth who may practice as an attorney before the commission.

PURPOSE: This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.

AUTHORITY: section 386.410, RSMo 1994. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded: Filed Aug. 24, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-110 and be filed with an original and fourteen copies. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

PROPOSED RULE

4 CSR 240-2.040 Practice Before the Commission

PURPOSE: This rule sets forth who may practice as an attorney before the commission.

(1) The general counsel represents the staff in investigations, contested cases and other proceedings and appears for the commission in all courts and before federal regulatory bodies; and in general performs all duties and services as attorney and counsel to the commission which the commission may reasonably require.

(2) The public counsel represents the interests of the public before the commission.

(3) Attorneys who wish to practice before the commission shall fully comply with its rules and also comply with one (1) of the following criteria:

(A) An attorney who is licensed to practice law in the state of Missouri, and in good standing, may practice before the commission;

(B) A nonresident attorney who is a member of the Missouri Bar in good standing, but who does not maintain an office for the practice of law within the state of Missouri, may appear as in the case of a resident attorney;

(C) Any attorney who is not a member of the Missouri Bar, but who is a member in good standing of the bar of any court of record may petition the commission for leave to be permitted to appear and participate in a particular case under all of the following conditions:

1. The visiting attorney shall file in a separate pleading a statement identifying each court of which that attorney is a member and certifying that neither the visiting attorney nor any member of the attorney's firm is disqualified to appear in any of these courts;

2. The statement shall designate some member in good standing of the Missouri Bar having an office within Missouri as associate counsel; and

3. The designated Missouri attorney shall simultaneously enter an appearance as an attorney of record**.**

(4) An eligible law student may petition the commission to be allowed to appear. Such application must comply with any applicable rules or statutes.

(5) Practice by Nonattorneys. A natural person may represent himself or herself. Such practice is strictly limited to the appearance of a natural person on his or her own behalf and shall not be made for any other person or entity.

(6) After an attorney has entered an appearance for any party, the attorney may withdraw only by leave of the commission.

AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-110 and be filed with an original and fourteen copies. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

PROPOSED RESCISSION

4 CSR 240-2.050 Computation of Effective Dates. This rule set standards for computation of effective dates of any order or time prescribed by the commission when no specific date was set by commission order.

PURPOSE: This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.

AUTHORITY: section 386.410, RSMo 1994. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded: Filed Aug. 24, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-111 and be filed with an original and fourteen copies. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

PROPOSED RULE

4 CSR 240-2.050 Computation of Effective Dates

PURPOSE: This rule sets standards for computation of effective dates of any order or time prescribed by the commission when no specific date is set by commission order.

(1) In computing any period of time prescribed or allowed by the commission, the day of the order, act, event, or default shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or legal holiday, in which case the period runs until the end of the next day which is not a Saturday, Sunday or legal holiday. This rule does not apply when the commission establishes a specific date by which an action must occur, nor does it operate to extend effective dates which are established by statute.

(2) In computing the effective date of any order of the commission, the order is considered effective at 12:01 a.m. on the effective date designated in the order, whether or not the date is a Saturday, Sunday or legal holiday.

(3) When an act is required or allowed to be done by order or rule of the commission at or within a specified time, the commission, at its discretion, may—

(A) Order the period enlarged before the expiration of the period originally prescribed or as extended by a previous order; or

(B) After the expiration of the specified period, permit the act to be done where the failure to act was the result of excusable neglect.

AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-111 and be filed with an original and fourteen copies. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

PROPOSED RESCISSION

4 CSR 240-2.060 Applications. This rule set forth the requirements which must be met by applications to the commission requesting relief under statutory or other authority.

PURPOSE: This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.

AUTHORITY: section 386.410, RSMo 1994. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Amended: Filed Sept. 6, 1985, effective Dec. 15, 1985. Amended: Filed Feb. 3, 1987, effective May 1, 1987. Amended: Filed May 11, 1988, effective Aug. 11, 1988. Amended: Filed Feb. 5, 1993, effective Oct. 10, 1993. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded: Filed Aug. 24, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-112 and be filed with an original and fourteen copies. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

PROPOSED RULE

4 CSR 240-2.060 Applications

PURPOSE: Applications to the commission requesting relief under statutory or other authority must meet the requirements set forth in this rule.

(1) All applications shall comply with the requirements of these rules and shall include the following information:

(A) The legal name of each applicant, a statement of the nature of each applicant, whether a Missouri corporation, foreign corporation, partnership, proprietorship, or other business organization, the street and mailing address of the principal office or place of business of each applicant and each applicant's electronic mail address, fax number and telephone number, if any;

(B) If any applicant is a Missouri corporation, a Certificate of Good Standing from the secretary of state;

(C) If any applicant is a foreign corporation, a certificate from the secretary of state that it is authorized to do business in Missouri;

(D) If any applicant is a partnership, a copy of the partnership agreement;

(E) If any applicant does business under a fictitious name, a copy of the registration of the fictitious name with the secretary of state;

(F) If any applicant is a political subdivision, a specific reference to and a copy of the statutory provision or other authority under which it operates;

(G) If any applicant has submitted the applicable information as set forth in subsections (1)(B)–(F) of this rule in a previous application, the same may be incorporated by reference to the case number in which the information was furnished, so long as such applicable information is current and correct;

(H) A brief statement of the character of business performed by each applicant;

(I) Name, title, address and telephone number of the person to whom correspondence, communications and orders and decision of the commission are to be sent, if other than to the applicant's legal counsel;

(J) If any applicant is an association, a list of all of its members;

(K) A statement indicating whether the applicant has any pending or final judgments or decisions against it from any state or federal agency or court which involve customer service or rates;

(L) A verified statement that no annual report or assessment fees are overdue; and

(M) All applications shall be subscribed and verified by affidavit under oath by one (1) of the following methods: if an individual, by that individual; if a partnership, by an authorized member of the partnership; if a corporation, by an authorized officer of the corporation; if a municipality or political subdivision, by an authorized officer of the municipality or political subdivision; or by the attorney for the applicant if the application includes or is accompanied by a verified statement that the attorney is so authorized.

(2) If any of the items required under this rule are unavailable at the time the application is filed, they shall be furnished prior to the granting of the authority sought.

(3) Competitive telecommunications companies are exempt from subsections (7)(A)–(D), (8)(A)–(E), and (11)(C)–(G) of this rule; however, they must file a pleading indicating which company will be holding the certificate of service authority and providing service to Missouri customers, and the tariff under which service will be provided.

(4) In addition to the requirements of subsection (1), applications for a certificate of convenience and necessity by a gas, electric, water, sewer or heating company shall include the following information:

(A) If the application is for a service area—

1. A statement as to the same or similar utility service, regulated and nonregulated, available in the area requested;

2. If there are ten (10) or more residents or landowners, the name and address of no fewer than ten (10) persons residing in the proposed service area or of no fewer than ten (10) landowners in the event there are no residences in the area, or, if there are fewer than ten (10) residents or landowners, the name and address of all residents and landowners;

3. The legal description of the area to be certificated;

4. A plat drawn to a scale of one-half inch (1/2") to the mile on maps comparable to county highway maps issued by the Missouri Department of Transportation or a plat drawn to a scale of two thousand feet (2,000') to the inch; and

5. A feasibility study containing plans and specifications for the utility system and estimated cost of the construction of the utility system during the first three (3) years of construction; plans for financing; proposed rates and charges and an estimate of the number of customers, revenues and expenses during the first three (3) years of operations;

(B) If the application is for electrical transmission lines, gas transmission lines or electrical production facilities—

1. A description of the route of construction and a list of all electric and telephone lines of regulated and nonregulated utilities, railroad tracks or any underground facility, as defined in section 319.015, RSMo, which the proposed construction will cross;

2. The plans and specifications for the complete construction project and estimated cost of the construction project or a statement of the reasons the information is currently unavailable and a date when it will be furnished; and

3. Plans for financing;

(C) When no evidence of approval of the affected governmental bodies is necessary, a statement to that effect;

(D) When approval of the affected governmental bodies is required, evidence must be provided as follows:

1. When consent or franchise by a city or county is required, approval shall be shown by a certified copy of the document granting the consent or franchise, or an affidavit of the applicant that consent has been acquired; and

2. A certified copy of the required approval of other governmental agencies; and

(E) The facts showing that the granting of the application is required by the public convenience and necessity.

(5) In addition to the requirements of section (1), applications for a certificate of interexchange service authority to provide customer-owned coin telephone (COCT) service shall be filed on the form provided by the commission.

(A) Applications for COCT service shall include a description of the general area in which service is to be offered.

(B) Providers of COCT service shall be exempt from the provisions of sections 392.390(1) and (3), RSMo, but shall remain subject to the provisions of section 386.370, RSMo.

(6) In addition to the requirements of section (1), applications for a certificate of service authority to provide telecommunications services, whether interexchange, local exchange or basic local exchange, shall include:

(A) A request to be classified as a competitive telecommunications company, if applicable, and a description of the types of service the applicant intends to provide;

(B) If the application is for basic local exchange service authority, the applicant shall indicate the exchange(s) in which service is to be offered; and

(C) A proposed tariff with an effective date which is not fewer than forty-five (45) days after the tariff's issue date.

(7) In addition to the requirements of section (1), applications for authority to sell, assign, lease or transfer assets shall include:

(A) A brief description of the property involved in the transaction, including any franchises, permits, operating rights or certificates of convenience and necessity;

(B) A copy of the contract or agreement of sale;

(C) The verification of proper authority by the person signing the application or a certified copy of resolution of the board of directors of each applicant authorizing the proposed action;

(D) The reasons the proposed sale of the assets is not detrimental to the public interest;

(E) If the purchaser is subject to the jurisdiction of the commission, a balance sheet and income statement with adjustments showing the results of the acquisitions of the property; and

(F) For gas, electrical, telecommunications, water and sewer companies, a statement of the impact, if any, the sale, assignment, lease or transfer of assets will have on the tax revenues of the polit-

ical subdivisions in which any structures, facilities or equipment of the companies involved in that sale are located.

(8) In addition to the requirements of section (1), applications for authority to merge or consolidate shall include:

(A) A copy of the proposed plan and agreement of corporate merger and consolidation, including organizational charts depicting the relationship of the merging entities before and after the transaction;

(B) A certified copy of the resolution of the board of directors of each applicant authorizing the proposed merger and consolidation;

(C) The balance sheets and income statements of each applicant and a balance sheet and income statement of the surviving corporation;

(D) The reasons the proposed merger is not detrimental to the public interest;

(E) An estimate of the impact of the merger on the company's Missouri jurisdictional operations and a list of all documents generated relative to the analysis of the merger and acquisition in question; and

(F) For gas, electrical, water, sewer and telecommunications companies, a statement of the impact, if any, the merger or consolidation will have on the tax revenues of the political subdivision in which any structures, facilities or equipment of the companies involved are located.

(9) If the purchaser under either section (7) or (8) is not subject to the jurisdiction of the commission, but will be subject to the commission's jurisdiction after the sale, the purchaser must comply with these rules.

(10) In addition to the requirements of section (1), applications for gas storage companies for authority to acquire property through eminent domain proceedings shall include:

(A) The legal description of the areas to be acquired;

(B) A map showing the areas to be acquired;

(C) Names and addresses of all persons who may have any legal or equitable title of record in the property to be acquired; and

(D) The reasons it is necessary to acquire the property and why it is in the public interest.

(11) In addition to the requirements of section (1), applications for authority to issue stock, bonds, notes and other evidences of indebtedness shall contain the following:

(A) A brief description of the securities which applicant desires to issue;

(B) A statement of the purpose for which the securities are to be issued and the use of the proceeds;

(C) Copies of executed instruments defining the terms of the proposed securities—

1. If these instruments have been previously filed with the commission, a reference to the case number in which the instruments were furnished;

2. If these instruments have not been executed at the time of filing, a statement of the general terms and conditions to be contained in the instruments which are proposed to be executed; and

3. If none of these instruments is either executed or to be executed, a statement of how the securities are to be sold;

(D) A certified copy of resolutions of the directors of applicant authorizing the issuance of the securities;

(E) A balance sheet and income statement with adjustments showing the effects of the issuance of the proposed securities upon—

1. Bonded and other indebtedness; and

2. Stock authorized and outstanding;

(F) A statement of what portion of the issue is subject to the fee schedule in section 386.300, RSMo; and

(G) A five (5)-year capitalization expenditure schedule as required by section 392.310 or 393.200, RSMo.

(12) In addition to the requirements of section (1), applications for authority to acquire the stock of a public utility shall include:

(A) A statement of the offer to purchase stock of the public utility or a copy of any agreement entered with shareholders to purchase stock;

(B) A certified copy of the resolution of the directors of applicant authorizing the acquisition of the stock; and

(C) Reasons why the proposed acquisition of the stock of the public utility is not detrimental to the public interest.

(13) In addition to the requirements of section (1), applications for commission approval of territorial agreements shall include:

(A) A copy of the territorial agreement and a specific designation of the boundary, including legal description;

(B) An illustrative tariff which reflects any changes in a regulated utility's operations or certification;

(C) An explanation as to why the territorial agreement is in the public interest;

(D) A list of all persons whose utility service would be changed by the agreement; and

(E) A check for fees required by these rules.

(14) In addition to the requirements of section (1), applications for variances or waivers from commission rules and tariff provisions, as well as those statutory provisions which may be waived, shall contain information as follows:

(A) Specific indication of the statute, rule or tariff from which the variance or waiver is sought;

(B) The reasons for the proposed variance or waiver and a complete justification setting out the good cause for granting the variance or waiver; and

(C) The name of any public utility affected by the variance or waiver.

(15) In addition to the requirements of section (1), applications for commission authority for a change of electrical suppliers shall include:

(A) A description of the structure where the change of supplier is sought, and the street address of the structure;

(B) The name and address of the electrical supplier currently providing service to the structure;

(C) The name and address of the electrical supplier to which the applicant wishes to change;

(D) The applicant's reasons for seeking a change of supplier;

(E) If the applicant's reasons involve service problems, a description of the problems and dates of occurrence, if known;

(F) If the applicant's reasons involve service problems, a description of the contacts which applicant has had with the current supplier regarding the problems, if any, and what efforts the current supplier has made to solve the problems, if any;

(G) The reasons a change of electrical suppliers is in the public interest;

(H) If the current electrical supplier and the requested electrical supplier agree to the requested change, a verified statement for each supplier with the application, indicating agreement; and

(I) If the applicant is an electrical supplier, a list of the names and addresses of all customers whose electrical supplier is proposed to be changed.

(16) A name change may be accomplished by filing the items below with a cover letter requesting a change of name. Notwithstanding any other provision of these rules, the items

required herein may be filed by a nonattorney. Applications for approval of a change of name shall include:

(A) A statement, clearly setting out both the old name and the new name;

(B) Evidence of registration of the name change with the Missouri secretary of state; and

(C) Either an adoption notice and revised tariff title sheet with an effective date which is not fewer than thirty (30) days after the filing date of the application, or revised tariff sheets with an effective date which is not fewer than thirty (30) days after the filing date of the application.

(17) In addition to the requirements of section (1), applications for a certificate of service authority to provide shared tenant services (STS) shall be filed on the form provided by the commission.

(A) STS applications shall include:

1. A description of all telecommunications services to be offered at the certificated location;

2. A description of any non-telecommunications services to be offered at the certificated location;

3. A copy of the contract or contracts to be used with tenants at the certificated location;

4. A copy of the contract or contracts to be signed with the local exchange company (LEC);

5. A description of the type of STS technology to be used at the certificated location;

6. A description of the form of interconnection to be used to provide toll services to tenants at the certificated location;

7. A copy of the notice used to inform tenants that local exchange access line service may not be immediately available if STS is terminated at the certificated location;

8. A statement of the rates to be charged tenants at the certificated location; and

9. A statement of the total number of tenants and corresponding stations to be served at the certificated location.

(B) Applicant shall submit annual reports filed on the form provided by the commission. Each such report shall include a list of all premises at which applicant provides STS, and a list of all STS-related complaints received from tenants, including a summary of the nature of each such complaint, and a list of case numbers for any formal complaints filed with the commission.

AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Amended: Filed Sept. 6, 1985, effective Dec. 15, 1985. Amended: Filed Feb. 3, 1987, effective May 1, 1987. Amended: Filed May 11, 1988, effective Aug. 11, 1988. Amended: Filed Feb. 5, 1993, effective Oct. 10, 1993. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-112 and be filed with an original and fourteen copies. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

PROPOSED RESCISSION

4 CSR 240-2.065 Tariff Filings Which Create Docketed Cases. This rule established when a docketed case would be established for a tariff.

PURPOSE: This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.

AUTHORITY: section 386.410, RSMo 1994. Original rule filed March 10, 1995, effective Nov. 30, 1995. Rescinded: Filed Aug. 24, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-113 and be filed with an original and fourteen copies. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

PROPOSED RULE

4 CSR 240-2.065 Tariff Filings Which Create Cases

PURPOSE: This rule establishes when a case shall be opened for a tariff.

(1) When a public utility submits a tariff which constitutes a general rate increase request, the commission shall establish a case file for the tariff. The tariff and all pleadings, orders, briefs, and correspondence regarding the tariff shall be filed in the case file established for the tariff. The tariff submitted shall be in compliance with the provisions of the rules relating to the separate utilities. A tariff filed which proposes a general rate increase request shall also comply with the minimum filing requirements of these rules for general rate increase requests. Any public utility which submits a general rate increase request shall simultaneously submit its direct testimony with the tariff.

(2) When a public utility submits a tariff for commission approval but requests the tariff become effective in fewer than thirty (30) days, the commission shall establish a case file for the tariff. In addition, the public utility shall file a Motion for Expedited Treatment and comply with the expedited treatment portion of these rules. The tariff and all pleadings, orders, briefs, and correspondence shall be filed in the case file established for the tariff.

(3) When a pleading, which objects to a tariff or requests the suspension of a tariff, is filed, the commission shall establish a case file for the tariff and shall file the tariff and pleading in that case

file. All subsequent pleadings, orders, briefs, and correspondence concerning the tariff shall be filed in the case file established for the tariff. Any pleading to suspend a tariff shall attach a copy of the tariff and include a certificate of service to confirm that the party who submitted the tariff has been served with the pleading.

(4) A case will not be established to consider tariff sheets submitted by a regulated utility which do not meet the circumstances of sections (1)–(3) of this rule, except that a case shall be established when tariff sheets are suspended by the commission on its own motion or, when suspended, upon the recommendation of staff.

(5) When a public utility extends the effective date of a tariff, it shall file one (1) original, and eight (8) copies of a letter extending the tariff effective date in the official case file. Notwithstanding any other provision of these rules, this letter may be filed by a nonattorney.

AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-113 and be filed with an original and fourteen copies. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

PROPOSED RESCISSION

4 CSR 240-2.070 Complaints. This rule established the procedures for filing formal and informal complaints with the commission.

PURPOSE: This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.

AUTHORITY: section 386.410, RSMo 1994. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Amended: Filed June 9, 1987, effective Nov. 12, 1987. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded: Filed Aug. 24, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-114 and be filed with an original and fourteen copies. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

PROPOSED RULE

4 CSR 240-2.070 Complaints

PURPOSE: This rule establishes the procedures for filing formal and informal complaints with the commission.

(1) The commission on its own motion, the commission staff through the general counsel, the office of the public counsel, or any person or public utility who feels aggrieved by a violation of any statute, rule, order or decision within the commission's jurisdiction may file a complaint. The aggrieved party, or complainant, has the option to file either an informal or a formal complaint.

(2) Informal Complaints. To file an informal complaint, the complainant shall state, either in writing, by telephone (consumer services hotline 1-800-392-4211, or TDD hotline 1-800-829-7541), or in person at the commission's offices—

(A) The name, street address and telephone number of each complainant and, if one (1) person asserts authority to act on behalf of the others, the source of that authority;

(B) The address where the utility service was rendered;

(C) The name and address of the party against whom the complaint is filed;

(D) The nature of the complaint, and the complainant's interest therein;

(E) The relief requested; and

(F) The measures taken by the complainant to resolve the complaint.

(3) Formal Complaints. If a complainant is not satisfied with the outcome of the informal complaint, a formal complaint may be filed. Formal complaint may be made by petition or complaint in writing, setting forth any act or thing done or omitted to be done by any person, corporation or public utility, including any rule or charge established or fixed by or for any person, corporation or public utility, in violation or claimed to be in violation of any provision of law or of any rule or order or decision of the commission. However, no complaint shall be entertained by the commission, except upon its own motion, as to the reasonableness of any rates or charges of any public utility unless the complaint is signed by the public counsel, the mayor or the president or chairman of the board of aldermen or a majority of the council or other legislative body of any town, village, county or other political subdivision, within which the alleged violation occurred, or not fewer than twenty-five (25) consumers or purchasers or prospective consumers or purchasers of public utility gas, electricity, water, sewer or telephone service as provided by law. Any public utility has the right to file a formal complaint on any of the grounds upon which complaints are allowed to be filed by other persons and the same procedure shall be followed as in other cases.

(4) The commission shall not be required to dismiss any complaint because of the absence of direct damage to the complainant.

(5) The formal complaint shall contain the following information:

(A) The name, street address, signature, telephone number, facsimile number and electronic mail address, where applicable, of each complainant and, if different, the address where the subject utility service was rendered;

(B) The name and address of the person, corporation or public utility against whom the complaint is being filed;

(C) The nature of the complaint and the complainant's interest in the complaint, in a clear and concise manner;

(D) The relief requested;

(E) A statement as to whether the complainant has directly contacted the person, corporation or public utility about which complaint is being made;

(F) The jurisdiction of the commission over the subject matter of the complaint; and

(G) If the complainant is an association, a list of all its members.

(6) The commission, on its own motion or on the motion of a party, may after notice dismiss a complaint for failure to state a claim on which relief may be granted or failure to comply with any provision of these rules or an order of the commission, or may strike irrelevant allegations.

(7) Upon the filing of a complaint in compliance with these rules, the secretary of the commission shall serve by certified mail, postage prepaid, a copy of the complaint upon the person, corporation or public utility against whom the complaint has been filed, which shall be accompanied by a notice that the matter complained of be satisfied or that the complaint be answered by the respondent, unless otherwise ordered, within thirty (30) days of the date of the notice.

(8) The respondent shall file an answer to the complaint within the time provided. All grounds of defense, both of law and of fact, shall be raised in the answer. If the respondent has no information or belief upon the subject sufficient to enable the respondent to answer an allegation of the complaint, the respondent may so state in the answer and assert a denial upon that ground.

(9) If the respondent in a complaint case fails to file a timely answer, the complainant's averments may be deemed admitted and an order granting default entered. The respondent has seven (7) days from the issue date of the order granting default to file a motion to set aside the order of default and extend the filing date of the answer. The commission may grant the motion to set aside the order of default and grant the respondent additional time to answer if it finds good cause.

(10) The commission may order, at any time after the filing of a complaint, an investigation by its staff as to the cause of the complaint. The staff shall file a report of its findings with the commission and all parties to the complaint case. The investigative report shall not be made public unless released in accordance with sections 386.480, 392.210(2) or 393.140(3), RSMo, or during the course of the hearing involving the complaint.

(11) When the commission determines that a hearing should be held, the commission shall fix the time and place of the hearing. The commission shall serve notice upon the affected person, corporation or public utility not fewer than ten (10) days before the time set for the hearing, unless the commission finds the public necessity requires that the hearing be held at an earlier date.

(12) All matters upon which a complaint may be founded may be joined in one (1) hearing and no motion for dismissal shall be entertained against a complainant for misjoinder of causes of action or grievances or misjoinder or nonjoinder of parties.

AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Amended: Filed June 9, 1987, effective Nov. 12, 1987. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-114 and be filed with an original and fourteen copies. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

PROPOSED RESCISSION

4 CSR 240-2.075 Intervention. This rule prescribed the procedures by which an individual or entity may intervene in a proceeding or may participate without intervention.

PURPOSE: This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.

AUTHORITY: section 386.410, RSMo 1994. Original rule filed March 10, 1995, effective Nov. 30, 1995. Rescinded: Filed Aug. 24, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-115 and be filed with an original and fourteen copies. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

PROPOSED RULE

4 CSR 240-2.075 Intervention

PURPOSE: This rule prescribes the procedures by which an individual or entity may intervene in a case and allows for the filing of briefs by ***amicus curiae****.*

(1) An application to intervene shall comply with these rules and shall be filed within thirty (30) days after the commission issues its order giving notice of the case, unless otherwise ordered by the commission.

(2) An application to intervene shall state the proposed intervenor's interest in the case and reasons for seeking intervention, and shall state whether the proposed intervenor supports or oppos-

es the relief sought or that the proposed intervenor is unsure of the position it will take.

(3) An association filing an application to intervene shall list all of its members.

(4) The commission may on application permit any person to intervene on a showing that—

(A) The proposed intervenor has an interest which is different from that of the general public and which may be adversely affected by a final order arising from the case; or

(B) Granting the proposed intervention would serve the public interest.

(5) Applications to intervene filed after the intervention date may be granted upon a showing of good cause.

(6) Any person not a party to a case may petition the commission for leave to file a brief as an *amicus curiae*.

AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-115 and be filed with an original and fourteen copies. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

PROPOSED RESCISSION

4 CSR 240-2.080 Pleadings. This rule prescribed the content and procedure for filing pleadings before the commission.

PURPOSE: This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.

AUTHORITY: section 386.410, RSMo 1994. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed May 15, 1980, effective Sept. 12, 1980. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Amended: Filed Sept. 6, 1985, effective Dec. 15, 1985. Amended: Filed Feb. 23, 1990, effective May 24, 1990. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded: Filed Aug. 24, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-116 and be filed with an original and fourteen copies. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

PROPOSED RULE

4 CSR 240-2.080 Pleadings, Filing, and Service

PURPOSE: This rule prescribes the content and procedure for filing pleadings before the commission and for service thereof.

(1) Every pleading or brief shall be signed by at least one (1) attorney of record with the attorney's individual name or, if a natural person is not represented by an attorney, shall be signed by the natural person.

(2) Each pleading or brief shall state the signer's address, Missouri bar number, electronic mail address, fax number and telephone number, if any. If the attorney is not licensed in Missouri the signature shall be followed by the name of the state in which the attorney is licensed and any identifying number or nomenclature similarly used by the licensing state.

(3) Each pleading shall include a clear and concise statement of the relief requested and specific reference to the statutory provision or other authority under which relief is requested.

(4) Except when provided by rule or statute, pleadings or briefs need not be verified or accompanied by affidavit.

(5) An unsigned pleading or brief shall be stricken.

(6) The signer represents that he or she is authorized to so act, and that the signer is a licensed attorney-at-law in good standing in Missouri or has complied with the rules below concerning any attorney who is not a Missouri attorney or is appearing on his or her own behalf.

(7) By presenting or maintaining a claim, defense, request, demand, objection, contention, or argument in a pleading, motion, brief, or other document filed with or submitted to the commission, an attorney or party is certifying to the best of the signer's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, that—

(A) The claim, defense, request, demand, objection, contention, or argument is not presented or maintained for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

(B) The claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(C) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(D) The denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.

(8) Any person filing a pleading or a brief shall file with the secretary of the commission one (1) original and eight (8) copies of the pleading or brief.

(9) Each pleading may be accompanied by a cover letter which states the subject matter. This cover letter shall contain no matter for commission decision.

(10) Any person filing a pleading which initiates a formal complaint at the commission or filing a pleading in a formal complaint case shall file one (1) original or duplicate original and eight (8) copies of the pleading with the secretary of the commission unless otherwise ordered by the commission.

(11) The party filing a pleading or brief shall serve each other party a copy of the pleading or brief and cover letter. Any party may contact the secretary of the commission for the names and addresses of the parties in a case.

(12) The date of filing shall be the date the pleading or brief is stamped filed by the secretary of the commission.

(13) Pleadings and briefs in every instance shall display on the cover or first page the case number and the title of the case. In the event the title of a case contains more than one (1) name as applicants, complainants or respondents, it shall be sufficient to show only the first of these names as it appears in the first document commencing the case, followed by an appropriate abbreviation (et al.) indicating the existence of other parties. Unless a case is consolidated, pleadings or briefs shall be filed with only one (1) case number and title thereon.

(14) Pleadings and briefs shall be bound at the top or at an edge, shall be typewritten or printed upon white, eight and one-half by eleven-inch (8 1/2" × 11") paper. Attachments to pleadings or briefs shall be annexed and folded to eight and one-half by eleven-inch (8 1/2" × 11") size whenever practicable. Printing on both sides of the page is encouraged. Lines shall be double-spaced, except that footnotes and quotations in excess of three (3) lines may be single-spaced. Reproduction of any of these documents may be by any process provided all copies are clear and permanently legible.

(15) Pleadings and briefs which are not in substantial compliance with this rule, applicable statutes or commission orders shall not be accepted for filing. The secretary of the commission may return these pleadings or briefs with a concise explanation of the deficiencies and the reasons for not accepting them for filing. Tendered filings which have been rejected shall not be entered on the commission's docket. The mere fact of filing shall not constitute a waiver of any noncompliance with these rules and the commission may require amendment of a pleading or entertain appropriate motions in connection with the pleading.

(16) Parties shall be allowed seven (7) days from the date of filing in which to respond to any pleading unless otherwise ordered by the commission.

(17) Any party seeking expedited treatment in any case shall include in the title of the pleading the words "Motion for Expedited Treatment." The pleading shall also set out with particularity the following:

(A) The date by which the party desires the commission to act;

(B) The harm that will be avoided, or the benefit that will accrue, if the commission acts by the date desired by the party; and

(C) An attestation by the moving party that the pleading was filed as soon as it could have been or an explanation why it was not.

(18) Methods of Service.

(A) Any person entitled by law may serve a document on a represented party by—

1. Delivering it to the party's attorney;

2. Leaving it at the office of the party's attorney with a secretary, clerk or attorney associated with or employed by the attorney served; or

3. Mailing it to the last known address of the party's attorney.

(B) Any person entitled by law may serve a document on an unrepresented party by—

1. Delivering it to the party; or

2. Mailing it to the party's last known address.

(C) Service by mail is complete upon mailing.

(19) Unless otherwise provided by these rules or by other law, the party filing a pleading or brief shall serve every other party, including the general counsel and the public counsel, a copy of the pleading or brief and cover letter.

(20) Every pleading or brief shall include a certificate of service. Such certificate of service shall be adequate proof of service.

AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed May 15, 1980, effective Sept. 12, 1980. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Amended: Filed Sept. 6, 1985, effective Dec. 15, 1985. Amended: Filed Feb. 23, 1990, effective May 24, 1990. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-116 and be filed with an original and fourteen copies. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

PROPOSED RULE

4 CSR 240-2.085 Protective Orders

PURPOSE: This rule prescribes the procedures for obtaining a protective order.

(1) Any party seeking a protective order in any case, shall request such by separate pleading denominated "Motion for Protective Order." The pleading shall state with particularity why the moving party seeks protection, and what harm may occur if the information is made public. The pleading shall also include a statement that none of the information for which a claim of confidentiality is made can be found in any format in any other public document.

(2) Pleadings, testimony, or briefs shall not contain highly confidential or proprietary information unless a protective order has been issued by the commission; except that if the pleading which initiates a case contains highly confidential or proprietary information, then the party shall file one (1) original, and eight (8) copies of the public version; and one (1) original, and eight (8)

copies of the complete version containing the information to be protected, together with a Motion for Protective Order. A highly confidential or proprietary copy of the pleadings shall be served on the parties, including general counsel and the public counsel.

(3) Unless otherwise ordered, after the issuance of a protective order all pleadings or exhibits shall be filed in the form of one (1) original and eight (8) copies of the protected matter and one (1) original of the public version.

AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed Aug. 24, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-117 and be filed with an original and fourteen copies. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

PROPOSED RESCISSION

4 CSR 240-2.090 Discovery and Prehearings. This rule prescribed the procedures for depositions, written interrogatories, data requests and prehearing conferences.

PURPOSE: This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.

AUTHORITY: section 386.410, RSMo 1994. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Amended: Filed June 9, 1987, effective Nov. 12, 1987. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded: Filed Aug. 24, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-118 and be filed with an original and fourteen copies. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

PROPOSED RULE

4 CSR 240-2.090 Discovery and Prehearings

PURPOSE: This rule prescribes the procedures for depositions, written interrogatories, data requests and prehearing conferences.

(1) Discovery may be obtained by one (1) or more of the following methods: depositions upon oral examination or written questions, written interrogatories, requests for production of documents or things and requests for admission upon and under the same conditions as in civil actions in the circuit court. Sanctions for abuse of the discovery process or failure to comply with commission orders regarding discovery shall be the same as those provided for in the rules of civil procedure.

(2) Parties may use data requests as a means for discovery. The party to whom data requests are presented shall answer the requests within twenty (20) days after receipt unless otherwise agreed by the parties to the data requests. If the recipient objects to data requests or is unable to answer within twenty (20) days, the recipient shall serve all of the objections or reasons for its inability to answer in writing upon the requesting party within ten (10) days after receipt of the data requests, unless otherwise ordered by the commission. If the recipient asserts an inability to answer the data requests within the twenty (20)-day time limit, the recipient shall include the date it will be able to answer the data requests simultaneously with its reasons for its inability to answer. Upon agreement by the parties or for good cause shown, the time limits may be modified. As used in this rule, the term data request shall mean an informal written request for documents or information which may be transmitted directly between agents or employees of the commission, public counsel or other parties. Answers to data requests need not be under oath or be in any particular format, but shall be signed by a person who could attest to the truthfulness and correctness of the answers. Sanctions for failure to answer data requests shall be the same as those provided for abuse of the discovery process in section (1) of this rule. The responding party shall promptly notify the requesting party of any changes to the answers previously given to a data request.

(3) All prehearing conferences shall be held as directed by the commission or presiding officer, and reasonable notice of the prehearing conference time shall be given to the parties involved.

(4) Any party may petition the commission to hold a prehearing conference at any time prior to the hearing.

(5) If a party does not attend a prehearing conference and is not excused by the commission or presiding officer, the party may be dismissed from the case.

(6) Parties may consider procedural and substantive matters at the prehearing conference which may aid in the disposition of the issues. Matters which require a decision may be presented to the presiding officer during the conference.

(7) Facts disclosed in the course of a prehearing conference are privileged and, except by agreement, shall not be used against participating parties unless fully substantiated by other evidence.

(8) In any motion to compel or motion for sanctions, the moving party shall describe the attempts made to resolve the matter and shall attach the disputed discovery request and any answers and objections to it.

AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Amended: Filed June 9, 1987, effective Nov. 12, 1987. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November. 1, 1999. Comments should refer to Case No. AX-2000-118 and be filed with an original and fourteen copies. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

PROPOSED RESCISSION

4 CSR 240-2.100 Subpoenas. This rule prescribed the procedures for requesting and issuing subpoenas for the production of witnesses and records.

PURPOSE: This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.

AUTHORITY: section 386.410, RSMo 1994. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded: Filed Aug. 24, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-119 and be filed with an original and fourteen copies. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

PROPOSED RULE

4 CSR 240-2.100 Subpoenas

PURPOSE: The commission may issue subpoenas for the production of witnesses and records. This rule prescribes the procedures for requesting and issuing subpoenas.

(1) A request for a subpoena or a subpoena *duces tecum* requiring a person to appear and testify at the taking of a deposition or at a hearing, or for production of documents or records shall be filed on the form provided by the commission and shall be directed to the secretary of the commission. A request for a subpoena *duces tecum* shall specify the particular document or record to be produced, and shall state the reasons why the production is believed to be material and relevant.

(2) Except for a showing of good cause, a subpoena or subpoena *duces tecum* shall not be issued fewer than twenty (20) days before a hearing.

(3) Objections to a subpoena or subpoena *duces tecum* or motions to quash a subpoena or subpoena *duces tecum* shall be made within seven (7) days from the date the subpoena or subpoena *duces tecum* is served.

(4) Subpoenas or subpoenas *duces tecum* shall be signed and issued by the secretary of the commission, a commissioner or by a law judge pursuant to statutory delegation authority. The name and address of the witness shall be inserted in the original subpoena or subpoena *duces tecum* and a copy of the return shall be filed with the secretary of the commission. Subpoenas or subpoenas *duces tecum* shall show at whose instance the subpoena or subpoena *duces tecum* is issued. Blank subpoenas shall not be issued.

AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-119 and be filed with an original and fourteen copies. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

PROPOSED RESCISSION

4 CSR 240-2.110 Hearings. This rule prescribed the procedures for the setting, notice, and conduct of hearings.

PURPOSE: This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.

AUTHORITY: section 386.410, RSMo 1994. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Amended: Filed Sept. 6, 1985, effective Dec. 15, 1985. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded: Filed: Aug. 24, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the

Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-120 and be filed with an original and fourteen copies. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

PROPOSED RULE

4 CSR 240-2.110 Hearings

PURPOSE: This rule prescribes the procedures for the setting, notices, and conduct of hearings.

(1) The commission shall set the time and place for all hearings and serve notice as required by law. Additional notice may be served when the commission deems it to be appropriate.

(2) The presiding officer may order continuance of a hearing date for good cause.

(A) When a continuance has been granted at the request of the applicant or complainant, the commission may dismiss the case for failure to prosecute if it has not received a request from the applicant or complainant that the matter be again continued or set for hearing within ninety (90) days from the date of the order granting the continuance.

(B) Failure to appear at a hearing without previously having secured a continuance shall constitute grounds for dismissal of the party or the party's complaint, application or other action unless good cause for the failure to appear is shown.

(3) When pending actions involve related questions of law or fact, the commission may order a joint hearing of any or all the matters in issue, and may make other orders concerning cases before it to avoid unnecessary costs or delay.

(4) The presiding officer may limit the number of witnesses, exhibits, or the time for testimony.

(5) The order of procedure in hearings shall be as follows, unless otherwise agreed to by the parties or ordered by the presiding officer:

(A) In all cases except investigation cases, the applicant or complainant shall open and close, with intervenors following the general counsel and the public counsel in introducing evidence;

(B) In investigation cases, the general counsel shall open and close; and

(C) In rate cases, the general counsel shall be given the first opportunity to cross-examine.

(6) A reporter appointed by the commission shall make a full and complete record of all cases and testimony in any formal hearing.

(7) Suggested corrections to the transcript of record shall be offered within seven (7) days after the transcript is filed except for good cause shown. The suggestions shall be in writing and shall be served upon the presiding officer and each party. Objections to proposed corrections shall be made in writing within seven (7) days after the filing of the suggestions. The commission shall determine what changes, if any, shall be made in the record after a review of the suggested corrections and any objections.

(8) A party may request that the commission reopen a case for the taking of additional evidence if the request is made after the hearing has been concluded, but before briefs have been filed or oral argument presented, or before a decision has been issued in the absence of briefs or argument. Such a request shall be made by filing with the secretary of the commission a petition to reopen the record for the taking of additional evidence in accordance with these rules, and serving the petition on all other parties. The petition shall specify the facts which allegedly constitute grounds in justification, including material changes of fact or of law alleged to have occurred since the conclusion of the hearing. The petition shall also contain a brief statement of the proposed additional evidence, and an explanation as to why this evidence was not offered during the hearing.

AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Amended: Filed Sept. 6, 1985, effective Dec. 15, 1985. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-120 and be filed with an original and fourteen copies. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

PROPOSED RESCISSION

4 CSR 240-2.115 Nonunanimous Stipulations and Agreements. This rule prescribed the proceeding which resulted when a nonunanimous stipulation and agreement was presented to the commission.

PURPOSE: This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.

AUTHORITY: section 386.410, RSMo 1994. Original rule filed June 9, 1987, effective Sept. 15, 1987. Rescinded: Filed Aug.24, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be consid-

ered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-121 and be filed with an original and fourteen copies. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

PROPOSED RULE

4 CSR 240-2.115 Nonunanimous Stipulations and Agreements

PURPOSE: This rule prescribes the procedure when a nonunanimous stipulation and agreement is presented to the commission.

(1) A nonunanimous stipulation and agreement is any stipulation and agreement which is entered into by fewer than all parties and where one (1) or more parties requests a hearing of one (1) or more issues. If no party requests a hearing, the commission may treat the stipulation and agreement as a unanimous stipulation and agreement.

(2) If a hearing is requested, the commission shall grant the request.

(3) A nonunanimous stipulation and agreement shall be filed as a pleading. Each party shall have seven (7) days from the filing of the nonunanimous stipulation and agreement to file a request for a hearing. Failure to file a timely request for hearing shall constitute a full waiver of that party's right to a hearing.

AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed June 9, 1987, effective Sept. 15, 1987. Rescinded and readopted: Filed Aug. 24, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-121 and be filed with an original and fourteen copies. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

PROPOSED RESCISSION

4 CSR 240-2.116 Dismissal. This rule prescribed the conditions under which an initiating party may voluntarily dismiss a proceeding.

PURPOSE: This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.

AUTHORITY: section 386.410, RSMo 1994. Original rule filed March 10, 1995, effective Nov. 30, 1995. Rescinded: Filed Aug. 24, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-122 and be filed with an original and fourteen copies. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

PROPOSED RULE

4 CSR 240-2.116 Dismissal

PURPOSE: This rule prescribes the conditions under which the commission or an initiating party may dismiss a case.

(1) An applicant or complainant may voluntarily dismiss an application or complaint without an order of the commission at any time before prepared testimony has been filed or oral evidence has been offered, by filing a notice of dismissal with the commission and serving a copy on all parties. Once evidence has been offered or prepared testimony filed, an applicant or complainant may dismiss an action only by leave of the commission, or by written consent of the adverse parties.

(2) Cases may be dismissed for lack of prosecution if no action has occurred in the case for ninety (90) days and no party has filed a pleading requesting a continuance beyond that time.

(3) A party may be dismissed from a case for failure to comply with any order issued by the commission.

(4) A case may be dismissed for good cause found by the commission after a minimum of ten (10) days notice to all parties involved.

AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-122 and be filed with an original and fourteen copies. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

PROPOSED RESCISSION

4 CSR 240-2.120 Presiding Officers. This rule stated the duties and responsibilities of presiding officers.

PURPOSE: This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.

AUTHORITY: section 386.410, RSMo 1994. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed June 9, 1987, effective Nov. 12, 1987. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded: Filed Aug. 24, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-123 and be filed with an original and fourteen copies. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

PROPOSED RULE

4 CSR 240-2.120 Presiding Officers

PURPOSE: This rule states the duties of presiding officers and the procedure for disqualifying them.

(1) A presiding officer shall have the duty to conduct full, fair and impartial hearings, to take appropriate action to avoid unnecessary delay in the disposition of cases, to maintain order, and shall possess all powers necessary to that end. The presiding officer may take action as may be necessary and appropriate to the discharge of duties, consistent with the statutory authority or other authorities under which the commission functions and with the rules and policies of the commission.

(2) Whenever any party shall deem the presiding officer for any reason to be disqualified to preside, or to continue to preside, in a particular case, the party may file with the secretary of the commission a motion to disqualify with affidavits setting forth the grounds alleged for disqualification. A copy of the motion shall be served by the commission on the presiding officer whose removal is sought and the presiding officer shall have seven (7) days from the date of service within which to reply.

AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed June 9, 1987, effective Nov. 12, 1987. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-123 and be filed with an original and fourteen copies. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

PROPOSED RESCISSION

4 CSR 240-2.125 Procedures for Use of a Presiding Officer in Settlement Negotiations. This rule established procedures which allow parties to utilize a presiding officer in settlement negotiations in order to resolve issues or the entire matter in dispute.

PURPOSE: This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.

AUTHORITY: section 386.410, RSMo 1994. Original rule filed March 10, 1995, effective Nov. 30, 1995. Rescinded: Filed Aug. 24, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-124 and be filed with an original and fourteen copies. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

PROPOSED RULE

4 CSR 240-2.125 Procedures for Alternative Dispute Resolution

PURPOSE: This rule establishes procedures which will allow parties to utilize alternative dispute resolution methods in order to resolve issues or the entire matter in dispute.

(1) Settlement Negotiations.

(A) When the parties agree that the participation of a presiding officer in the settlement process would be beneficial, those parties shall file a motion for appointment of a settlement officer for that case. The motion shall contain—

1. A statement that all parties agree to the procedure;

2. A list of the issues to be addressed or matters the parties wish the presiding officer to aid them in resolving;

3. If there is no prefiled testimony, a description of the issues of each party; and

4. A date by which a settlement will be reached or settlement negotiations under this procedure will end.

(B) If the commission grants the motion for a settlement officer, it shall issue an order scheduling a settlement conference and shall appoint a presiding officer to participate in settlement negotiations.

(C) The negotiations and statements of the parties or attorneys made at the settlement conference shall be off the record and shall not be made a part of the official case.

(D) If a settlement is not reached before the date specified by the parties in their motion, the procedure shall end unless the parties all agree to an extension and the procedure is extended by order of the commission.

(2) Mediation.

(A) Without prior notice or motion, the commission may order that mediation proceed in a complaint case before any further proceeding in such case.

(B) As the commission deems appropriate, or upon the filing of a request for mediation by any party, mediation services may be provided by a presiding officer or by a neutral third party for the purpose of identifying the issues and attempting a resolution.

(C) The written application for mediation services should include the case number, the names of each party and a brief explanation of the case.

(3) The settlement officer or the mediator, if that mediator is also a presiding officer, shall be disqualified from conducting an evidentiary hearing relating to that particular case and shall not make any communication regarding the settlement or mediation discussions in the case to any commissioner or the presiding officer appointed to preside over the case.

(4) The commission may order parties to engage in alternative dispute resolution with a commission authorized mediator.

(5) At any time, upon the request for mediation or upon the issuance of an order requiring mediation, all other actions on the case shall cease and all time limitations shall be tolled pending the completion of mediation process.

(6) Failure to participate in commission ordered mediation shall be grounds for dismissal of the noncompliant party.

AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-124 and be filed with an original and fourteen copies. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

PROPOSED RESCISSION

4 CSR 240-2.130 Evidence. This rule prescribed the rules of evidence in any hearing before the commission.

PURPOSE: This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.

AUTHORITY: section 386.410, RSMo 1994. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 6, 1981, effective Feb. 15, 1982. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Amended: Filed June 9, 1987, effective Nov. 12, 1987. Amended: Filed Feb. 23, 1990, effective May 24, 1990. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded: Filed Aug. 24, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-125 and be filed with an original and fourteen copies. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

PROPOSED RULE

4 CSR 240-2.130 Evidence

PURPOSE: This rule prescribes the rules of evidence in any hearing before the commission.

(1) In any hearing, section 536.070, RSMo shall apply, as supplemented by these rules.

(2) If any information contained in a document on file as a public record with the commission is offered in evidence, the document need not be produced as an exhibit unless directed otherwise by the presiding officer, but may be received in evidence by reference, provided that the particular portions of the document shall be specifically identified and are relevant and material.

(3) The presiding officer shall rule on the admissibility of all evidence. Evidence to which an objection is sustained, at the request of the party seeking to introduce the same or at the instance of the commission, nevertheless may be heard and preserved in the record, together with any cross-examination with respect to the evidence and any rebuttal of the evidence, unless it is wholly irrel-

evant, repetitious, privileged or unduly long. When objections are made to the admission or exclusion of evidence, the grounds relied upon shall be stated briefly. Formal exceptions to rulings shall be unnecessary and need not be taken.

(4) In extraordinary circumstances where prompt decision by the commission is necessary to promote substantial justice, the presiding officer may refer a matter to the commission for determination during the progress of the hearing.

(5) The rules of privilege shall be effective to the same extent that they are now or may hereafter be in civil actions.

(6) Prepared testimony shall be typed or printed, in black type on white paper eight and one-half inches by eleven inches (8" × 11"); it shall be double-spaced and pages numbered consecutively at the bottom right-hand corner or bottom center beginning with the first page as page 1; it shall be filed unfolded and stapled together at the top left-hand margin or bound at an edge in booklet form; and it shall be filed in sufficient number of copies as required by order of the commission, observing the following margins: left-hand margin, one inch (1"); top margin, one inch (1"); right-hand margin, one inch (1"); and bottom margin, one inch (1"). Printing on both sides of the page is encouraged. Schedules shall bear the word "schedule" and the number of the schedule shall be typed in the lower right-hand margin of the first page of the schedule. All prepared testimony and other exhibits and schedules shall contain the following information in the following format on the upper right-hand corner of a cover sheet:

Exhibit No: (To be marked by the hearing reporter)
Issue: (If known at the time of filing)
Witness: (Full name of witness)
Type of Exhibit: (Specify whether direct, rebuttal, or other type of exhibit)
Sponsoring Party:
Case No.:

The prepared testimony of each witness shall be filed separately. Prepared testimony shall be filed on line-numbered pages. Testimony which addresses more than one (1) issue shall contain a table of contents.

(7) For the purpose of filing prepared testimony, direct, rebuttal, and surrebuttal testimony are defined as follows:

(A) Direct testimony shall include all testimony and exhibits asserting and explaining that party's entire case-in-chief;

(B) Where all parties file direct testimony, rebuttal testimony shall include all testimony which is responsive to the testimony and exhibits contained in any other party's direct case. A party need not file direct testimony to be able to file rebuttal testimony;

(C) Where only the moving party files direct testimony, rebuttal testimony shall include all testimony which explains why a party rejects, disagrees or proposes an alternative to the moving party's direct case; and

(D) Surrebuttal testimony shall be limited to material which is responsive to matters raised in another party's rebuttal testimony.

(8) No party shall be permitted to supplement prefiled prepared direct, rebuttal or surrebuttal testimony unless ordered by the presiding officer or the commission. A party shall not be precluded from having a reasonable opportunity to address matters not previously disclosed which arise at the hearing. This provision does not forbid the filing of supplemental direct testimony for the purpose of replacing projected financial information with actual results.

(9) Any or all parties may file a stipulation as to the facts, in which event the same shall be numbered as a joint exhibit. This stipulation shall not preclude the offering of additional evidence by any party unless otherwise agreed in the stipulation.

(10) Exhibits shall be legible and, unless otherwise authorized by the commission, shall be prepared on standard eight and one-half inch by eleven inch (8" × 11")-size paper. The sheets of each exhibit shall be numbered and rate comparisons and other figures shall be set forth in tabular form.

(11) Exhibits shall be tendered to the reporter at the time of hearing without being prenumbered by the offering party, unless otherwise ordered by the commission.

(12) All exhibits shall be marked at the time of hearing, using a single series of numbers, unless otherwise ordered by the commission.

(13) When exhibits are offered in evidence, the original and two (2) copies shall be furnished to the reporter, and the party offering exhibits also shall be prepared to furnish a copy to each commissioner and presiding officer and each party, unless the copies have previously been furnished or the presiding officer directs otherwise.

(14) The presiding officer may require the production of further evidence upon any issue. The presiding officer may authorize the filing of specific evidence as a part of the record within a fixed time after submission, reserving exhibit numbers, and setting other conditions for such production.

(15) Evidence for which a claim of confidentiality is made shall be filed in conformance with a protective order approved by the commission. Parties shall obtain a protective order prior to filing of documentary evidence.

(16) All testimony shall be taken under oath.

(17) All late filed exhibits shall be submitted by simultaneously providing a copy to all parties, and by submitting an original and eight (8) copies to the presiding officer. Unless otherwise ordered, any objection to the admission of a late filed exhibit must be filed within seven (7) days of the date the exhibit was tendered.

AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 6, 1981, effective Feb. 15, 1982. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Amended: Filed June 9, 1987, effective Nov. 12, 1987. Amended: Filed Feb. 23, 1990, effective May 24, 1990. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-125 and be filed with an original and fourteen copies. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

PROPOSED RESCISSION

4 CSR 240-2.140 Briefs and Oral Arguments. This rule set forth the procedures for filing briefs and presenting oral arguments in any hearing before the commission.

PURPOSE: This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.

AUTHORITY: section 386.410, RSMo 1994. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed June 9, 1987, effective Nov. 12, 1987. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded: Filed Aug. 24, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-126 and be filed with an original and fourteen copies. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

PROPOSED RULE

4 CSR 240-2.140 Briefs and Oral Arguments

PURPOSE: This rule sets forth the procedures for filing briefs and presenting oral arguments in any hearing.

(1) The commission or presiding officer shall determine whether the parties may file briefs or present oral argument, or both, in any case.

(2) Unless otherwise ordered by the commission or presiding officer, when briefs are to be filed in any case, the parties shall have twenty (20) days after the date on which the complete transcript of the hearing is filed to file their initial briefs. Unless otherwise ordered by the commission or presiding officer, the parties shall have ten (10) days after the filing of the initial briefs to file their reply briefs. When a reply brief is due ten (10) days after filing of initial briefs, the initial briefs shall be sent to all parties by overnight mail or hand-delivered on the day of filing or the next day.

(3) Unless otherwise ordered by the commission or presiding officer, the time allowed for oral argument shall be—

(A) For an applicant or complainant, thirty (30) minutes, which may be divided between the initial argument and reply argument, but no more than one-third (1/3) of the time shall be consumed by the reply argument; and

(B) For all other parties, a total of fifteen (15) minutes each.

(4) The commission may at its discretion order the parties to file suggested findings of fact, conclusions of law, and ordered paragraphs.

AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed June 9, 1987, effective Nov. 12, 1987. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-126 and be filed with an original and fourteen copies. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

PROPOSED RESCISSION

4 CSR 240-2.150 Orders of the Commission. This rule prescribed the method of issuing commission orders and the effective date of such orders.

PURPOSE: This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.

AUTHORITY: section 386.410, RSMo 1994. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed June 9, 1987, effective Nov. 12, 1987. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded: Filed Aug. 24, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-127 and be filed with an original and fourteen copies. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

PROPOSED RULE

4 CSR 240-2.150 Decisions of the Commission

PURPOSE: This rule prescribes the method of issuing commission orders and the effective date of such orders.

(1) The record of a case shall stand submitted for consideration by the commission after the recording of all evidence or, if applicable, after the filing of briefs or the presentation of oral argument.

(2) The commission's orders shall be in writing and shall be issued as soon as practicable after the record has been submitted for consideration.

(3) Every order of the commission shall be served by mailing a certified copy, with postage prepaid, to all parties of record.

(4) The commission may, at its discretion, issue a preliminary order and allow parties to provide responses to the preliminary order. Responses to a preliminary order shall be limited to five (5) pages and shall be due five (5) days after the date the preliminary order is issued, unless otherwise ordered by the commission. The commission may then issue its order after reviewing the responses of the parties.

(5) As technology permits, and where the parties have provided their electronic mail address, the commission will attempt to issue an electronic copy of each order.

AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed June 9, 1987, effective Nov. 12, 1987. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-127 and be filed with an original and fourteen copies. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

PROPOSED RESCISSION

4 CSR 240-2.160 Rehearings or Reconsideration. This rule prescribed the procedure for requesting a rehearing of a final order of the commission and the disposition of that request.

PURPOSE: This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.

AUTHORITY: section 386.410, RSMo 1994. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded: Filed Aug. 24, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-128 and be filed with an original and fourteen copies. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

PROPOSED RULE

4 CSR 240-2.160 Rehearing and Reconsideration

PURPOSE: This rule prescribes the procedure for requesting a rehearing of a final order or a reconsideration of a procedural or interlocutory order of the commission and the disposition of that request.

(1) Applications for rehearing may be filed prior to the effective date of the final order entered in a contested case. Motions for reconsideration of procedural and interlocutory orders shall be filed within ten (10) days of the date the order is issued, unless otherwise ordered by the commission. Both applications for rehearings and motions for reconsideration shall set forth specifically the ground(s) on which the applicant considers the order to be unlawful, unjust or unreasonable.

(2) The filing of an application for rehearing or motion for reconsideration shall not excuse any party from complying with any order of the commission, nor operate in any manner to stay or postpone the enforcement of any order, unless otherwise ordered by the commission.

(3) The commission shall grant a rehearing or reconsider the order if in its judgment there is sufficient reason to do so. The commission may rehear or reconsider an entire order or any issue within an order. The commission may base a rehearing or reconsideration on the existing record or may require or allow additional evidence, pleadings or briefs.

(4) The commission, after a rehearing or reconsideration of the evidence, pleadings or briefs, including any additional evidence, pleadings or briefs received since the issuance of the order, may affirm, rescind, or modify the order.

AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-128 and be filed with an original and fourteen copies. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

PROPOSED RESCISSION

4 CSR 240-2.170 Forms. This rule provided examples of the form and contents of certain types of common filings.

PURPOSE: This rule is being rescinded to avoid confusion because of changes.

AUTHORITY: section 386.410, RSMo 1994. Original rule filed Dec. 19, 1975, effective Dec. [24] 29, 1975. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded: Filed Aug. 24, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-129 and be filed with an original and fourteen copies. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

PROPOSED RESCISSION

4 CSR 240-2.180 Rulemaking. This rule provided a procedure for rulemaking, and petitioning for rulemaking, pursuant to Chapter 536, RSMo.

PURPOSE: This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.

AUTHORITY: sections 386.040, 386.250, 386.310, 386.410, 387.050, 387.160, 387.170, 387.230, 387.240, 387.290, 387.310, 387.320, 387.330, 389.580, 389.710, 389.795, 389.945, 389.992, 389.993, 390.041, 390.126, 390.136, 390.138, 392.200, 392.210, 392.220, 392.240, 392.280, 392.290, 392.330, 393.110, 393.140(3), (4), (6), (9), (11) and (12), 393.160, 393.220, 393.240, 393.290 and 394.160, RSMo 1994. Original rule filed April 26, 1976, effective Sept. 11, 1976. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded: Filed Aug. 24, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-130 and be filed with an original and fourteen copies. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

PROPOSED RULE

4 CSR 240-2.180 Rulemaking

PURPOSE: This rule provides a procedure for rulemaking, and petitioning for rulemaking, pursuant to Chapter 536, RSMo.

(1) Promulgation, amendment, or rescission of rules adopted by the commission in Division 240 of Title 4 may be proposed, adopted, and published by approval of the commission as provided by law.

(2) Promulgation, amendment, or rescission of rules may be instituted by the commission through an internally-generated rulemaking case, or pursuant to a rulemaking petition filed with the commission.

(3) Petitions for promulgation, amendment or rescission of rules shall be as follows:

(A) Each petition for promulgation, amendment, or rescission of rules made pursuant to Chapter 536, RSMo, shall be filed with the secretary of the commission in writing and shall include:

1. The name, street address, and mailing address of the petitioner;

2. One (1) of the following:

A. The full text of the rule sought to be promulgated, if no rule on the subject currently exists;

B. The full text of the rule sought to be amended, including the suggested amendments, if amendment of an existing rule is sought;

C. The full text of the existing rule and the full text of the rule proposed to replace the existing rule, if the proposed changes to the existing rule are so substantial as to make replacement of the existing rule more efficient than amendment thereof; or

D. The full text of the rule sought to be rescinded, if rescission of an existing rule is sought;

3. A statement of petitioner's reasons in support of the promulgation, amendment, or rescission of the rule, including a statement of all facts pertinent to petitioner's interest in the matter;

4. Citations of legal authority which authorize, support, or require the rulemaking action requested by the petition;

5. An estimation of the effect of the rulemaking on private persons or entities with respect to required expenditures of money or reductions in income, sufficient to form the basis of a fiscal note as required under Chapter 536, RSMo; and

6. A verification of the petition by the petitioner by oath; and

(B) The commission shall either deny the petition in writing, stating the reasons for its decision, or shall initiate rulemaking in accordance with Chapter 536, RSMo.

(4) When the commission decides to promulgate, amend, or rescind a rule, it shall issue a notice of proposed rulemaking for the secretary of state to publish in the *Missouri Register*. The notice of proposed rulemaking shall contain the following:

(A) Instructions for the submission of written comments by anyone wishing to file a statement in support of or in opposition to the proposed rulemaking, by a specific date which shall not be fewer than thirty (30) days after the publication date; or

(B) Instructions and notice for both a written comment period and hearing.

(5) Persons wishing to file comments or testify at the hearing need not be represented by counsel, but may be so represented if they choose.

(6) Hearings on rulemakings may be for commissioner questions or for the taking of initial or reply comments.

(7) Hearings for the taking of initial or reply comments on rulemakings shall proceed as follows:

(A) A commissioner or presiding officer shall conduct the hearing, which shall be transcribed by a reporter;

(B) Persons wishing to testify shall be sworn by oath;

(C) Persons testifying may give a statement in support of or in opposition to a proposed rulemaking. The commissioners or the presiding officer may question those persons testifying;

(D) Statements shall first be taken from those supporting a proposed rule, followed by statements from those opposing the rule, unless otherwise directed by the presiding officer; and

(E) Persons testifying may offer exhibits in support of their positions.

(8) Within ninety (90) days after the end of a written comment period or the end of a hearing on a rulemaking, the commission shall issue an order of rulemaking which shall be published in the *Missouri Register* by the secretary of state. The order of rulemaking shall briefly summarize the general nature of the comments or statements made during the comment period or hearing, shall contain the findings required by Chapter 536, RSMo and shall either—

(A) Adopt the proposed rule or proposed amendment as set forth in the notice of proposed rulemaking without further change;

(B) Adopt the proposed rule or proposed amendment with further changes;

(C) Adopt the proposed rescission of the existing rule; or

(D) Withdraw the proposed rule.

AUTHORITY: sections 386.040, 392.210, 392.240, 392.280, 392,290, 393.110, 393.140(3), (4), (6), (9), (11) and (12), 393.160, 393.220, 393.240, 393.290 and 394.160, RSMo 1994 and 386.250, 386.310, 386.410, 392.200, 392.220 and 392.330, RSMo Supp. 1998. Original rule filed April 26, 1976, effective Sept. 11, 1976. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-130 and be filed with an original and fourteen copies. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

PROPOSED RESCISSION

4 CSR 240-2.200 Small Company Rate Increase Procedure. This rule provided procedures for small water, sewer and gas utilities to obtain rate increases.

PURPOSE: This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.

AUTHORITY: section 386.410, RSMo 1994. Original rule filed March 10, 1995, effective Nov. 30, 1995. Rescinded: Filed: Aug. 24, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-131 and be filed with an original and fourteen copies. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

PROPOSED RULE

4 CSR 240-2.200 Small Company Rate Increase Procedure

PURPOSE: This rule provides procedures for small water, sewer and gas utilities to obtain rate increases.

(1) Small companies, as defined in this rule, may seek a general increase in revenues through a small company rate case by filing a letter requesting the change. The request shall not be accompanied by any tariff sheets. For the purpose of this rule, small companies qualifying to use the small company rate case described in this rule shall include water and sewer utilities having eight thousand (8,000) or fewer customers and gas utilities having three thousand (3,000) or fewer customers. The small company rate case shall be conducted as follows:

(A) The original letter requesting the change shall be filed with the secretary of the commission and one (1) copy shall be furnished to the public counsel. The letter shall state the amount of the additional revenue requested, the reason(s) for the proposed change and a statement that all commission annual assessments have been paid in full or are being paid under an installment plan. The letter should also include a statement that the company's current annual report is on file with the commission. The company, in writing, shall notify customers of the request for additional

revenue and the effect on the typical residential customer's bill. The notice shall indicate that customers' responses may be sent to the appropriate commission department or the public counsel within thirty (30) days of the date shown on the notice. A draft copy of the notice shall be sent to the appropriate commission department for verification of the accuracy of the notice before being sent to the company's customers. A copy of the final notice shall then be sent to the appropriate commission department and the public counsel. The commission staff and the public counsel shall exchange copies of customer responses upon their receipt. Upon receipt of the company's request, the commission staff shall schedule an investigation of the company's operations and an audit of its financial records. When the investigation and audit are complete, the commission staff shall notify the company and public counsel whether the requested additional revenue is recommended in whole or in part, of the rate design proposal for the increase, and of any recommended operational changes. If public counsel wishes to conduct an investigation and audit of the company, it must do so within the same time period as staff's investigation and audit;

(B) The commission staff, within twenty-one (21) days from the completion of its investigation, shall arrange a conference with the company and shall notify the public counsel of the conference prior to the conference, in order to provide the public counsel an opportunity to participate;

(C) If the conference between the commission staff, the company and the public counsel results in an agreement concerning additional revenue requirements and any other matters pertaining to the company's operations, including responses to customer concerns, the agreement between the commission staff, the company and the public counsel shall be reduced to writing. The company may then file tariff sheet(s) with an effective date which is not fewer than thirty (30) days after the tariff's issue date and no additional customer notice or local public hearing shall be required, unless otherwise ordered by the commission. The company shall file a copy of the agreement with its tariff;

(D) If the conference results in an agreement between the commission staff and the company only, the company at this time shall file the necessary tariff sheet(s) with the commission in accordance with the agreement. The tariff sheet(s) shall contain an effective date of not fewer than forty-five (45) days from the issue date. The company shall notify customers in writing of the proposed rates resulting from the agreement. The notice shall indicate that customers' responses may be sent to the appropriate commission department or the public counsel within twenty (20) days of the date shown on the notice. A copy of the notice shall be sent to the secretary of the commission and the public counsel. The commission staff and the public counsel shall exchange copies of the customer responses upon their receipt. The public counsel shall file a pleading indicating its agreement or disagreement with the tariff sheet(s) within twenty-five (25) days of the date the tariff sheet(s) is filed, unless a public hearing is requested;

(E) A request for a local public hearing may be filed after the tariff sheet(s) is filed by the company. The request shall be filed within twenty (20) days of the filing of the tariff sheet(s) by the company. Public counsel shall file a pleading indicating agreement or disagreement with the tariff sheet(s) within seven (7) days after the local public hearing;

(F) An agreement must be reached and tariff sheet(s) filed based upon the agreement within one hundred fifty (150) days from the date the letter initiating the case is filed. This time period may be extended with the consent of the company. Written consent for an extension shall be filed with the company's tariff; and

(G) If no agreement can be reached between the commission staff and the company, the company may initiate a standard rate case.

AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-131 and be filed with an original and fourteen copies. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 18—Safety Standards

PROPOSED AMENDMENT

4 CSR 240-18.010 Safety Standards—Electric and Telephone Utilities and Rural Electric Cooperatives. The commission is amending section (1).

PURPOSE: This amendment provides for the adoption and incorporation by reference of the most recent edition of the ***American National Standard, National Electrical Safety Code*** *(NESC) as approved by the American National Standards Institute on June 6, 1996.*

PUBLISHER'S NOTE: The publication of the full text of the material that the adopting agency has incorporated by reference in this rule would be unduly cumbersome or expensive. Therefore, the full text of that material will be made available to any interested person at both the Office of the Secretary of State and the office of the adopting agency, pursuant to section 536.031.4, RSMo. Such material will be provided at the cost established by state law.

(1) The commission adopts **as its rule and incorporates by reference, Parts 1, 2 and 3 and Sections 1, 2 and 9 of** the *American National Standard, National Electric Safety Code (NESC)*; *[1993]* **1997** Edition as approved by the American National Standards Institute on *[July 10, 1992]* **June 6, 1996**. *[It]* **The NESC** is published by the Institute of Electrical and Electronics Engineers, Inc., as the minimum safety standards relating to operation of electric and telephone utilities and rural electric cooperatives. The NESC is composed of four (4) different parts and four (4) sections, each of which pertain to different aspects of the electric and telecommunications industries. *[The commission adopts Parts 1, 2 and 3 and Sections 1, 2 and 9.]* Part 1 specifies rules for the installation and maintenance of equipment normally found in electric generating plants and substations. Part 2 pertains to safety rules for overhead electric and communication lines. Part 3 contains safety rules for underground electric and communication lines. Section 1 is an introduction to the NESC, Section 2 defines special terms and Section 9 requires certain grounding methods for electric and communications facilities.

AUTHORITY: sections 386.310, RSMo [Cum. Supp. 1989] ***Supp. 1998*** *and 394.160, RSMo [1986]* ***1994****. Original rule filed March 15, 1978, effective Oct. 2, 1978. Amended: Filed April 8, 1981, effective Oct. 15, 1981. Amended: Filed Feb. 9, 1984, effective June 15, 1984. Amended: Filed June 12, 1987, effective Sept.*

15, 1987. Amended: Filed Jan. 5, 1990, effective April 13, 1990. Amended: Filed March 23, 1993, effective Oct. 10, 1993. Amended: Filed Aug. 27, 1999.

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102, (573) 751-3234. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. OX-2000-175, and be filed with an original and fourteen copies. A public hearing is scheduled for November 3, 1999, at 9:00 a.m. in room 530 of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri, for interested persons to appear and respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten days prior to the hearing at one of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 32—Telecommunications Service

PROPOSED RULE

4 CSR 240-32.110 Surety Bonding Requirements for Basic Local Telecommunications Companies

PURPOSE: This rule establishes surety bonding requirements to be observed by basic local telecommunications service providers to ensure financial obligations to end-users and other telecommunications service providers.

(1) To ensure the protection of the basic local telecommunication service company end-users and other telecommunications service providers, any basic local telecommunications service company with less than a two hundred fifty thousand dollar ($250,000) net book value in telephone plant and/or telephone facilities located in Missouri shall maintain a third-party surety bond (bond) or other mechanism as may be approved by the commission, as set forth in this subsection.

(A) The bond shall be one hundred thousand dollars ($100,000). The company shall submit proof of bond or proof of being exempt from a bonding requirement. Such proof shall be contained in an application to provide basic local telecommunications services and in each annual report or in some other manner as agreed upon by the commission.

(B)The bond shall be maintained as long as the telecommunications service provider is furnishing basic local telecommunications service in the state of Missouri pursuant to this chapter unless modified or released pursuant to commission order.

(C) The company shall ensure that the issuer of the bond notifies the commission when the bond is canceled or otherwise terminates prematurely.

(D) The company shall maintain records that identify by customer name, address and telephone number the dollar amount of a customer's prepaid basic local telecommunications services and any held deposits. Records should also be maintained regarding any amounts owed to other telecommunications providers. Such records shall be available to the commission, upon request.

(E) The bond should be structured so that if a bond is levied it shall reimburse parties in the following priority: prepaid basic local telecommunications services and deposits of end-users, costs associated with providing end-users with uninterrupted service from the carrier-of-last-resort should the company cease operations, and any debt obligations to other telecommunications service providers.

(2) Upon application to the commission, the bonding requirement mandated under section (1) shall be waived if the company successfully complies with the bonding requirement for a period of three (3) consecutive years.

AUTHORITY: sections 386.040 RSMo 1994 and 386.250 and 392.200, RSMo Supp. 1998. Original rule filed Aug. 24, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule is estimated to cost private entities $150,500 in the aggregate.

NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102, (573) 751-3234. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. TX-2000-158, and be filed with an original and fourteen copies. A public hearing is scheduled for November 2, 1999, at 9:00 a.m. in room 530 of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri, for interested persons to appear and respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten days prior to the hearing at one of the following numbers: Consumer Services Hotline 1-800-392-4211, or TDD Hotline 1-800-829-7541.

FISCAL NOTE
PRIVATE ENTITY COST

I. RULE NUMBER

Title: Missouri Department of Economic Development
Division: Missouri Public Service Commission
Chapter: Telecommunications Companies
Type of Rulemaking: New Rule (Surety Bonding Requirement)
Rule Number and Name: 4 CSR 240-32.110

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification* by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
	Class A Local Telephone Companies	
	Class B Local Telephone Companies	
28	Class C Local Telephone Companies	$150,500
28	All entities	$150,500

* Class A Telephone Companies are incumbent local telephone companies with more than $100,000,000 annual revenues system wide; Class B Telephone Companies are incumbent local telephone companies with $100,000,000 annual revenues or less system wide; Class C Local Telephone Companies are all other companies certificated to provide basic local exchange telecommunications services.

III. WORKSHEET

1. A draft of the proposed rule was distributed to Class A Telephone Companies, Class B Telephone Companies, Class C Local Telephone Companies, Class Interexchange Companies, and Class Payphone Providers certificated by the Missouri Public Service Commission as of June 1998. These companies were requested to review the rule and provide any projected fiscal impact projections, should the rule be approved as drafted. The above figures reflects information provided by responding companies.

IV. ASSUMPTIONS

1. The life of the rule is estimated at five years.

2. Fiscal year 1998 dollars are used to estimate costs. No adjustment for inflation is applied.

3. Estimates assume no sudden change in technology that would influence costs.

4. Affected entities are assumed to be in compliance with all other Missouri Public Service Commission and Federal Communication Commission rules and regulations.

5. The universe of entities is based on December 15, 1998 data and is assumed to remain constant. The universe of Class C Telephone Company entities is based on the number of companies with a certificate, approved interconnection agreement, and an approved tariff to provide basic local telecommunications services.

6. All Class A and Class B Telephone Companies are assumed to have a net book value of at least $250,000 and therefore do not require a surety bond.

7. All Class C Telephone Companies are assumed to have a net book value of less than $250,000 and therefore require a surety bond.

8. Class C Telephone Companies are assumed to require a $100,000 surety bond.

9. A $100,000 surety bond is assumed to have an annual cost of $1,075. This cost is based on information supplied by Iowa Network Services, the only company responding with surety bond costing information. Assumed annual cost is based on a 1% fee plus $75.

10. Annual fiscal cost is based on 28 Class C Telephone Companies * $1,075 = $30,100. Total fiscal impact is based on $30,100 annual cost * 5 years = $150,500.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 32—Telecommunications Service

PROPOSED RULE

4 CSR 240-32.120 Snap-Back Requirements for Basic Local Telecommunications Companies

PURPOSE: This rule establishes provisions for ensuring that basic local telecommunications service customers receive uninterrupted service from the carrier-of-last-resort should the customer's basic local telecommunications service company cease operations.

(1) To ensure uninterrupted service to basic local telecommunication service customers, a basic local exchange telecommunications company shall provide an immediate and orderly transition of its customers to the basic local service carrier(s)-of-last-resort in the event the company ceases operation or otherwise terminates service to the end-user customer for any reason other than cause as provided for in its tariffs and approved by the commission.

(2) If a basic local telecommunications service company serving a customer through unbundled network elements or resale of the carrier-of-last-resort's services ceases service, it shall immediately provide the carrier-of-last-resort all relevant information to ensure that the end-user customer will not experience a service outage except where the carrier-of-last-resort's tariff would not require service to that customer. The customer's intraLATA and/or interLATA carrier of choice will be continued if available. If it is not available, the carrier-of-last-resort will provide access to any carrier it selects until the customer notifies the carrier-of-last-resort in writing of a new carrier selection.

(3) The carrier-of-last-resort will immediately accept the customers of a basic local telecommunications service company providing service through resale or unbundled network elements of said carrier and provide the end-user identical or equivalent service as that service is offered to its own customers in that exchange. The service supplied will be provided according to the carrier-of-last-resort's approved tariff.

(4) The customer will be notified by the carrier of last resort of the change of service provider, the applicable rates that will be charged the customer, and that the customer has thirty days to make a choice of a preferred service provider. Such notice will be no later than the carrier-of-last-resort's initial bill to the affected customer. Within thirty days after transfer of a customer, said customer must make an affirmative choice to stay with the new carrier or select another carrier. If no choice is made, the current carrier may terminate service consistent with its existing tariff.

(5) If a basic local telecommunications service company serving a customer exclusively through the use of its own facilities, ceases service, it shall immediately provide the carrier-of-last-resort all relevant information to insure that the end-user customer will not experience a service outage and provide sufficient access to its network and facilities to accomplish an orderly and speedy transfer of service with minimal inconvenience and service disruption to the end-user customer.

(6) A carrier-of-last-resort providing customer service under conditions of this section shall notify the commission within five (5) days of the local exchange company, number and class of customer access lines, length of any service outage and any charges that the end-user customer may have incurred.

AUTHORITY: sections 386.040, RSMo 1994 and 386.250 and 392.200, RSMo Supp. 1998. Original rule filed Aug 24, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule is estimated to cost private entities $58,800 in the aggregate.

NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102, (573) 751-3234. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. TX-2000-160, and be filed with an original and fourteen copies. A public hearing is scheduled for November 4, 1999, at 9:00 a.m. in room 530 of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri, for interested persons to appear and respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten days prior to the hearing at one of the following numbers: Consumer Services Hotline 1-800-392-4211, or TDD Hotline 1-800-829-7541.

FISCAL NOTE
PRIVATE ENTITY COST

I. RULE NUMBER

Title: Missouri Department of Economic Development
Division: Missouri Public Service Commission
Chapter: Telecommunications Companies
Type of Rulemaking: New Rule (Snap-Back Requirement)
Rule Number and Name: 4 CSR 240-32.120

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification* by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
3	Class A Local Telephone Companies	$58,800
	Class B Local Telephone Companies	
	Class C Local Telephone Companies	
3	All entities	$58,800

* Class A Telephone Companies are incumbent local telephone companies with more than $100,000,000 annual revenues system wide; Class B Telephone Companies are incumbent local telephone companies with $100,000,000 annual revenues or less system wide; Class C Local Telephone Companies are all other companies certificated to provide basic local exchange telecommunications services.

III. WORKSHEET

1. A draft of the proposed rule was distributed to Class A Telephone Companies, Class B Telephone Companies, Class C Local Telephone Companies, Class Interexchange Companies, and Class Payphone Providers certificated by the Missouri Public Service Commission as of June 1998. These companies were requested to review the rule and provide any projected fiscal impact projections, should the rule be approved as drafted. The above figures reflects information provided by responding companies.

IV. ASSUMPTIONS

1. The life of the rule is estimated at five years.

2. Fiscal year 1998 dollars are used to estimate costs. No adjustment for inflation is applied.

3. Estimates assume no sudden change in technology that would influence costs.

4. Affected entities are assumed to be in compliance with all other Missouri Public Service Commission and Federal Communication Commission rules and regulations.

5. The universe of entities is based on December 15, 1998 data and is assumed to remain constant.

6. Incumbent telecommunications companies are assumed to be the carrier of last resort. Affected entities are assumed to be those incumbent telecommunications companies where other providers are currently authorized to offer basic local telecommunications service. As of December 1998 other providers are authorized to provide such services in the territories of only three incumbent telecommunications providers.

7. Assumed cost is based on figures supplied by Southwestern Bell, the only company submitting specific cost estimates, for a $5 conversion order.

8. The annual number of conversion orders is assumed to be 5% of the current number lines served by Class C Telephone Companies as of December 15, 1998. Current number of lines served by Class C Telephone Companies is 47,049 lines. Annual conversion orders is 47,049 * 5% = 2,352 orders.

9. Annual cost is assumed to be $5 * 2,352 orders = $11,760. Assumed cost over the life of the rule is assumed to be $11,760 * 5 years = $58,800.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 33—Service and Billing Practices for Telephone Utilities

PROPOSED RESCISSION

4 CSR 240-33.010 General Provisions. This rule described in general terms the provisions of this chapter.

PURPOSE: This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.

AUTHORITY: sections 386.040, 386.250 and 392.200, RSMo 1986. Original rule filed Jan. 14, 1977, effective Oct. 1, 1977. Rescinded: Filed Aug. 26, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102, (573) 751-3234. To be considered, comments shall be filed on or before November 12, 1999. Comments should refer to Case No. TX-2000-159, and be filed with an original and fourteen copies. A public hearing is scheduled for November 15, 1999, at 9:00 a.m. in room 520B of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri, for interested persons to appear and respond to commission questions.

SPECIAL NEEDS: Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten days prior to the hearing at one of the following numbers: Consumer Services Hotline 1-800-392-4211, or TDD Hotline 1-800-829-7541.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 33—Service and Billing Practices for *[Telephone Utilities] Telecommunications Companies*

PROPOSED RULE

4 CSR 240-33.010 General Provisions

PURPOSE: This rule describes in general terms the provisions of this chapter.

(1) This chapter applies to all telecommunications companies subject to the jurisdiction of the Missouri Public Service Commission.

(2) A telecommunications company shall not discriminate against a customer or prospective customer for exercising any right granted by this chapter.

(3) A telecommunications company may adopt rules governing its relations with customers and prospective customers which are not inconsistent with this chapter. The rules shall be part of a telecommunications company's tariffs.

(4) All telecommunications companies shall be in compliance with this chapter within six (6) months after the effective date of this rule and shall notify the commission of such compliance.

AUTHORITY: sections 386.040, RSMo 1994 and 386.250 and 392.200, RSMo Supp. 1998. Original rule filed Jan. 14, 1977, effective Oct. 1, 1977. Rescinded and readopted: Filed Aug. 26, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102, (573) 751-3234. To be considered, comments shall be filed on or before November 12, 1999. Comments should refer to Case No. TX-2000-159, and be filed with an original and fourteen copies. A public hearing is scheduled for November 15, 1999, at 9:00 a.m. in room 520B of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri, for interested persons to appear and respond to commission questions.

SPECIAL NEEDS: Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten days prior to the hearing at one of the following numbers: Consumer Services Hotline 1-800-392-4211, or TDD Hotline 1-800-829-7541.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 33—Service and Billing Practices for Telephone Utilities

PROPOSED RESCISSION

4 CSR 240-33.020 Definitions. This rule defined various terms that were used in this chapter.

PURPOSE: This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.

AUTHORITY: sections 386.040, 386.250 and 392.200, RSMo 1986. Original rule filed Jan. 14, 1977, effective Oct. 1, 1977. Rescinded: Filed Aug. 26, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102, (573) 751-3234. To be considered, comments shall be filed on or before November 12, 1999. Comments should refer to Case No. TX-2000-162, and be filed with an original and fourteen copies. A public hearing is scheduled for November 15, 1999, at 9:00 a.m. in room 520B of the

Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri, for interested persons to appear and respond to commission questions.

SPECIAL NEEDS: Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten days prior to the hearing at one of the following numbers: Consumer Services Hotline 1-800-392-4211, or TDD Hotline 1-800-829-7541.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 33—Service and Billing Practices for *[Telephone Utilities] Telecommunications Companies*

PROPOSED RULE

4 CSR 240-33.020 Definitions

PURPOSE: This rule defines various terms that are used in this chapter.

(1) Advance payment is money received by a telecommunications company from a customer for the purpose of securing payment of future charges accrued by a customer.

(2) Basic local telecommunications service is basic local telecommunications service as defined in section 386.020(4), RSMo, Supp. 1998.

(3) Bill is a written or electronic demand for payment for service or equipment and the taxes, assessments, and franchise fees related thereto.

(4) Bill insert or insert is a written notice which is enclosed with a bill.

(5) Billing period is a normal usage period of not less than twenty-eight (28) nor more than thirty-one (31) days.

(6) Complaint is a complaint as defined in 4 CSR 240-2.070.

(7) Customer is any individual, firm, partnership, corporation, municipality, cooperative, organization, governmental agency, etc., that accepts financial and other responsibilities in exchange for telecommunications service.

(8) Delinquent account is an account which has undisputed charges that are not paid in full by the due date.

(9) Deposit is a money advance to a telecommunications company for the purpose of securing payment of delinquent charges.

(10) Discontinuance of service or discontinuance is a cessation of service not requested by a customer.

(11) Guarantee is a written promise from a responsible party to assume liability.

(12) In dispute is any matter regarding a charge or service which is the subject of an unresolved inquiry.

(13) Inquiry is any written or oral comment or question regarding a charge or service.

(14) Letter of agency is a letter or other document sent by a customer to a telecommunications company authorizing the telecommunications company to change the telecommunications service provider for that customer.

(15) Access line is the line associated with each service location to which a unique telephone number is assigned.

(16) New customer is any customer who has no prior credit history with the telecommunications company with whom service is being requested.

(17) Operator services is operator services as defined in section 386.020(37), RSMo Supp. 1998.

(18) Pay telephone is a coin or non-coin telephone installed for use by the general public from which calls can be paid for at the time they are made by means of coins, tokens, credit cards, debit cards or a billing to an alternate number.

(19) Preferred payment date plan is a plan in which the due date for the charges stated on a bill is the same date in each billing period as selected by the customer.

(20) Rendition of a bill is the date a bill is mailed to a customer.

(21) Settlement agreement is a written agreement between a customer and a telecommunications company to resolve billing disputes or delinquent payments.

(22) Tariff is a statement by a communications company that sets forth the services offered by that company, and the rates, terms and conditions for the use of those services.

(23) Telecommunications company is a telephone corporation as defined in section 386.020(51), RSMo Supp. 1998.

(24) Termination of service or termination is a cessation of service requested by a customer.

AUTHORITY: sections 386.040, RSMo 1994 and 386.250 and 392.200, RSMo Supp. 1998. Original rule filed Jan. 14, 1977, effective Oct. 1, 1977. Rescinded and readopted: Filed Aug. 26, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule is estimated to cost private entities $10,487,054 in the aggregate.

NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102, (573) 751-3234. To be considered, comments shall be filed on or before November 12, 1999. Comments should refer to Case No. TX-2000-162, and be filed with an original and fourteen copies. A public hearing is scheduled for November 15, 1999, at 9:00 a.m. in room 520B of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri, for interested persons to appear and respond to commission questions.

SPECIAL NEEDS: Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten days prior to the hearing at one of the following numbers: Consumer Services Hotline 1-800-392-4211, or TDD Hotline 1-800-829-7541.

FISCAL NOTE
PRIVATE ENTITY COST

I. RULE NUMBER

Title: 4 – Department of Economic Development

Division: 240 – Public Service Commission

Chapter: 33 – Service and Billing Practices for Telecommunications Companies

Type of Rulemaking: Proposed Rule

Rule Number and Name: 4 CSR 240-33.020 Definitions

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification* by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
1	Class A Local Telephone Companies	$10,487,054 (See worksheet Item 1A)
	Class B Local Telephone Companies	
	Class C Local Telephone Companies	
	Class Interexchange Companies	
	Class Payphone Providers	
1	All entities	$10,487,054

* Class A Telephone Companies are incumbent local telephone companies with more than $100,000,000 annual revenues system wide; Class B Telephone Companies are incumbent local telephone companies with $100,000,000 annual revenues or less system wide; Class C Local Telephone Companies are all other companies certificated to provide basic local exchange telecommunications services, Class Interexchange Companies are long distance providers; Class Payphone Providers are private payphone providers.

III. WORKSHEET

1. A draft of the proposed rule was distributed to Class A Telephone Companies, Class B Telephone Companies, Class C Local Telephone Companies, Class Interexchange Companies, and Class Payphone Providers certificated by the Missouri Public Service

Commission as of June 1998. These companies were requested to review the rule and provide any projected fiscal impact projections, should the rule be approved as drafted. The above information reflects the responses of these companies.

A. Southwestern Bell Telephone Company stated that the total impact would be $10,487,054 because the billing insert that would be required to inform customers about changes in the appearance of the bill would cause customer confusion and, therefore, increased calls to its business office.

2. The estimated number of entities affected by the proposed rule reflects the number of companies responding with fiscal impact information.

3. Cost of compliance with the rule by the affected entities reflects the total projected cost over a five year period. Some entities indicated their actual cost may be greater than the amount projected.

IV. ASSUMPTIONS

1. The life of the rule is estimated at five years.

2. Fiscal year 1998 dollars are used to estimate costs. No adjustment for inflation is applied.

3. Estimates assume no sudden change in technology that would influence costs.

4. Affected entities are assumed to be in compliance with all other MoPSC rules and regulations.

5. The universe of entities is based on fiscal year 1998 data and is assumed to remain constant.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 33—Service and Billing Practices for Telephone Utilities

PROPOSED RESCISSION

4 CSR 240-33.040 Billing and Payment Standards. This rule established billing and payment standards to be observed by telephone utilities and customers in resolving questions regarding these matters so that reasonable and uniform standards existed for billing and payment practices for all telephone utilities.

PURPOSE: This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.

AUTHORITY: section 386.250(11), RSMo 1986. Original rule filed Jan. 14, 1977, effective Oct. 1, 1977. Amended: Filed Dec. 31, 1979, effective Sept. 2, 1980. Rescinded: Filed Aug. 26, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102, (573) 751-3234. To be considered, comments shall be filed on or before November 12, 1999. Comments should refer to Case No. TX-2000-163, and be filed with an original and fourteen copies. A public hearing is scheduled for November 15, 1999, at 9:00 a.m. in room 520B of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri, for interested persons to appear and respond to commission questions.

SPECIAL NEEDS: Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten days prior to the hearing at one of the following numbers: Consumer Services Hotline 1-800-392-4211, or TDD Hotline 1-800-829-7541.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 33—Service and Billing Practices for *[Telephone Utilities]* ***Telecommunications Companies***

PROPOSED RULE

4 CSR 240-33.040 Billing and Payment Standards for Residential Customers

PURPOSE: This rule establishes billing and payment standards to be observed by telecommunications companies and residential customers in resolving questions regarding these matters so that reasonable and uniform standards exist for billing and payment practices for all telecommunications companies.

(1) A telecommunications company, after the initial bill for new service is rendered, shall render a bill during each billing period except when the bill has a "00" balance.

(2) A telecommunications company may render bills on a cyclical basis if a customer receives the bill on or about the same day of each month.

(3) If a telecommunications company does not expressly offer a preferred payment date plan, a customer shall have at least twenty-one (21) days from the rendition of a bill to pay the charges stated. If the charges remain unpaid for twenty-one (21) days from rendition of the bill such charges will be deemed delinquent.

(4) If a telecommunications company has a preferred payment date plan which it has expressly offered to all its customers, the charges are due on or before the due date under the plan. Charges not paid by the due date may be deemed delinquent.

(5) A telecommunications company may assess a penalty charge upon a delinquent account. Such charge shall be specifically stated in the company's tariff.

(6) Every bill shall clearly state—

(A) The number of main stations for which charges are stated;

(B) The beginning or ending dates of the billing period for which charges are stated;

(C) A statement of the date the bill becomes delinquent if not paid;

(D) Penalty fees and advance payments, if any;

(E) The unpaid balance, if any;

(F) The amount due for basic service and an itemization of the amount due for all other regulated or nonregulated services including the date and duration (in minutes or seconds) of each toll call;

(G) An itemization of the amount due for taxes, franchise fees and other fees and/or surcharges which the telecommunications company, pursuant to its tariffs, bills to customers;

(H) The total amount due;

(I) The toll free telephone number(s) where inquiries and/or dispute resolutions may be made;

(J) The amount of any deposit and/or advance payments held by the company and the interest accrual rate;

(K) The amount of any deposit and/or interest accrued on a deposit which has been credited to the charges stated; and

(L) Any other credits and charges applied to the account during the current billing period.

AUTHORITY: sections 386.040, RSMo 1994 and 386.250 and 392.200, RSMo Supp. 1998. Original rule filed Jan. 14, 1977, effective Oct. 1, 1977. Amended: Filed Dec. 31, 1979, effective Sept. 2, 1980. Rescinded and readopted: Filed Aug. 26, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule is estimated to cost private entities $13,000,900 in the aggregate.

NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102, (573) 751-3234. To be considered, comments shall be filed on or before November 12, 1999. Comments should refer to Case No. TX-2000-163, and be filed with an original and fourteen copies. A public hearing is scheduled for November 15, 1999, at 9:00 a.m. in room 520B of the Harry S

Truman State Office Building, 301 West High Street, Jefferson City, Missouri, for interested persons to appear and respond to commission questions.

SPECIAL NEEDS: Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten days prior to the hearing at one of the following numbers: Consumer Services Hotline 1-800-392-4211, or TDD Hotline 1-800-829-7541.

FISCAL NOTE
PRIVATE ENTITY COST

I. RULE NUMBER

Title: 4 – Department of Economic Development

Division: 240 – Public Service Commission

Chapter: 33 – Service and Billing Practices for Telecommunications Companies

Type of Rulemaking: Proposed Rule

Rule Number and Name: 4 CSR 240-33.040 Billing and Payment Standards for Residential Customers

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification* by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
3	Class A Local Telephone Companies	$13,000,000 (See worksheet Item 1A)
2	Class B Local Telephone Companies	$900 (See worksheet Item 1B)
	Class C Local Telephone Companies	
	Class Interexchange Companies	
	Class Payphone Providers	
5	All entities	$13,000,900

* Class A Telephone Companies are incumbent local telephone companies with more than $100,000,000 annual revenues system wide; Class B Telephone Companies are incumbent local telephone companies with $100,000,000 annual revenues or less system wide; Class C Local Telephone Companies are all other companies certificated to provide basic local exchange telecommunications services, Class Interexchange Companies are long distance providers; Class Payphone Providers are private payphone providers.

III. WORKSHEET

1. A draft of the proposed rule was distributed to Class A Telephone Companies, Class B Telephone Companies, Class C Local Telephone Companies, Class Interexchange Companies, and Class Payphone Providers certificated by the Missouri Public Service Commission as of June 1998. These companies were requested to review the rule and provide any projected fiscal impact projections, should the rule be approved as drafted. The above information reflects the responses of these companies.

A. Class A Telephone Companies

i. SWBT estimated that this rule would cost it $3 million in one-time expenses and $2 million in annual recurring expenses ($13 million for five years) because the rule requires disaggregation of local and toll charges on a bill.

B. Class B Telephone Companies

i. Farber Telephone Company estimates that adding deposit and interest rate to bills would cost $500.

ii. Kingdom Telephone Company estimates $400 to show the deposit interest rate on monthly bills.

2. The estimated number of entities affected by the proposed rule reflects the number of companies responding with fiscal impact information.

3. Cost of compliance with the rule by the affected entities reflects the total projected cost over a five year period for those companies who have responded with projected fiscal impact information. Some entities indicated their actual cost may be greater than the amount projected.

IV. ASSUMPTIONS

1. The life of the rule is estimated at five years.

2. Fiscal year 1998 dollars are used to estimate costs. No adjustment for inflation is applied.

3. Estimates assume no sudden change in technology that would influence costs.

4. Affected entities are assumed to be in compliance with all other MoPSC rules and regulations.

5. The universe of entities is based on fiscal year 1998 data and is assumed to remain constant.

6. Accrued interest does not have to be stated on the bill monthly.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 33—Service and Billing Practices for Telephone Utilities

PROPOSED RESCISSION

4 CSR 240-33.050 Deposits and Guarantees of Payment. This rule established uniform standards dealing with the application and requirements of deposits and guarantee of payment so that reasonable and uniform standards existed regarding deposits and guarantees required by telephone utilities.

PURPOSE: This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.

AUTHORITY: section 386.250(11), RSMo 1986. Original rule filed Jan. 14, 1977, effective Oct. 1, 1977. Amended: Filed Dec. 31, 1979, effective Sept. 2, 1980. Rescinded: Filed Aug. 26, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102, (573) 751-3234. To be considered, comments shall be filed on or before November 12, 1999. Comments should refer to Case No. TX-2000-164, and be filed with an original and fourteen copies. A public hearing is scheduled for November 15, 1999, at 9:00 a.m. in room 520B of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri, for interested persons to appear and respond to commission questions.

SPECIAL NEEDS: Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten days prior to the hearing at one of the following numbers: Consumer Services Hotline 1-800-392-4211, or TDD Hotline 1-800-829-7541.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 33—Service and Billing Practices for *[Telephone Utilities] Telecommunications Companies*

PROPOSED RULE

4 CSR 240-33.050 Deposits and Guarantees of Payment for Residential Customers

PURPOSE: This rule establishes uniform standards dealing with the application and requirements of deposits and guarantee of payment so that reasonable and uniform standards exist regarding deposits and guarantees required by telecommunications companies.

(1) A telecommunications company may require a deposit or guarantee as a condition of new service within thirty (30) calendar days of the telecommunications company providing service.

(2) A telecommunications company may require a deposit or guarantee as a condition of continued service under either of the following circumstances:

(A) The customer has delinquent charges in two (2) out of the last twelve (12) billing periods. A telecommunications company, with respect to each customer, shall maintain a record of all charges which have become delinquent within the last twelve (12) billing periods; or

(B) The customer has had service discontinued under 4 CSR 240-33.070(1)(A) or (B) at any time during the preceding twelve (12) billing periods.

(3) No deposit, guarantee, additional deposit nor additional guarantee shall be required by a telecommunications company because of race, sex, creed, national origin, marital status, age, number of dependents, source of income, disability or geographical area of residence.

(4) A deposit shall be subject to the following terms:

(A) It shall not exceed estimated charges for two (2) months' service based on the average bill during the preceding twelve (12) months, or, in the case of new applicants for service, the average monthly bill for new subscribers within a customer class;

(B) It shall bear interest at a rate which is equal to one percent (1%) above the prime lending rate as published in the *Wall Street Journal*. This rate shall be adjusted annually on October 1 using the prime lending rate, as published in the *Wall Street Journal* on the last business day of September of each year, plus one percent (1%). The interest shall be credited annually upon the account of the customer or paid upon the return of the deposit, whichever occurs first. Interest shall not accrue on any deposit after the date on which a reasonable effort has been made to return it to the customer. Records shall be kept of efforts made to return a deposit;

(C) Upon discontinuance or termination, it shall be credited, with accrued interest, to the charge stated on the final bill and the balance, if any, shall be returned to the customer within twenty-one (21) days of the rendition of such final bill;

(D) Upon satisfactory payment of all undisputed charges during the last twelve (12) billing periods, it shall with accrued interest be promptly refunded or credited against charges stated on subsequent bills. A telecommunications company may withhold refund of a deposit pending the resolution of a dispute with respect to charges secured by such deposit;

(E) A telecommunications company shall maintain records which show the name of each customer who has posted a deposit, the current address of such customer, the date and amount of deposit, the date and amount of interest paid and the earliest possible refund date;

(F) A telecommunications company shall upon request provide within ten (10) days a receipt that contains the following information:

1. Name of customer;
2. Address where the service for which the deposit is required will be provided;
3. Place where deposit was received or a designated code which identifies the location;
4. Date when the deposit was received;
5. Amount of the deposit; and
6. The terms which govern retention and refund of the deposit;

(G) The telecommunications company shall, pursuant to 4 CSR 240-33.040(6)(J), specify on a customer's bill the amount of any deposit the telecommunications company holds for the customer. A telecommunications company shall maintain a record of the deposit refunded and interest paid on such deposit for a period of at least two (2) years after the refund is made; and

(H) A telecommunications company shall permit a customer, concurrent with the beginning of service, to post a deposit in two

(2) equal monthly installments or as otherwise agreed upon. A company may bill these installments as a line-item on customer bills.

(5) In lieu of a deposit a telecommunications company may accept a written guarantee. The guarantee shall not exceed the amount of a cash deposit that the telecommunications company could request under this section.

(6) A guarantor shall be released upon satisfactory payment of all undisputed charges during the last twelve (12) billing periods. Payment of a charge is satisfactory if received prior to the date upon which the charge becomes delinquent, provided it is not in dispute. All telecommunications companies shall provide to the commission upon request credit criteria and screening procedures, standardized record keeping and verification procedures for uncollectible accounts and an interest rate level for deposits.

(7) A telecommunications company may request an advance payment for the limited purpose of securing payment of installation charges, if applicable for that customer, and one (1) month's estimated charges for services requested by the customer unless otherwise approved by the commission and specified in the telecommunications company tariff.

AUTHORITY: sections 386.040, RSMo 1994 and 386.250 and 392.200, RSMo Supp. 1998. Original rule filed Jan. 14, 1977, effective Oct. 1, 1977. Amended: Filed Dec. 31, 1979, effective Sept. 2, 1980. Rescinded and readopted: Filed Aug. 26, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule is estimated to cost private entities $13,350 in the aggregate.

NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102, (573) 751-3234. To be considered, comments shall be filed on or before November 12, 1999. Comments should refer to Case No. TX-2000-164, and be filed with an original and fourteen copies. A public hearing is scheduled for November 15, 1999, at 9:00 a.m. in room 520B of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri, for interested persons to appear and respond to commission questions.

SPECIAL NEEDS: Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten days prior to the hearing at one of the following numbers: Consumer Services Hotline 1-800-392-4211, or TDD Hotline 1-800-829-7541.

FISCAL NOTE
PRIVATE ENTITY COST

I. RULE NUMBER

Title: 4 – Department of Economic Development

Division: 240 – Public Service Commission

Chapter: 33 – Service and Billing Practices for Telecommunications Companies

Type of Rulemaking: Proposed Rule

Rule Number and Name: 4 CSR 240-33.050 Deposits and Guarantees of Payment for Residential Customers

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification* by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
	Class A Local Telephone Companies	
4	Class B Local Telephone Companies	$13,350 (See worksheet Item 1A)
	Class C Local Telephone Companies	
	Class Interexchange Companies	
	Class Payphone Providers	
4		$13,350

* Class A Telephone Companies are incumbent local telephone companies with more than $100,000,000 annual revenues system wide; Class B Telephone Companies are incumbent local telephone companies with $100,000,000 annual revenues or less system wide; Class C Local Telephone Companies are all other companies certificated to provide basic local exchange telecommunications services, Class Interexchange Companies are long distance providers; Class Payphone Providers are private payphone providers.

III. WORKSHEET

1. A draft of the proposed rule was distributed to Class A Telephone Companies, Class B Telephone Companies, Class C Local Telephone Companies, Class Interexchange Companies, and Class Payphone Providers certificated by the Missouri Public Service Commission as of June 1998. These companies were requested to review the rule and provide any projected fiscal impact projections, should the rule be approved as drafted. The above information reflects the responses of these companies.
    A. Class B Companies
        i. BPS, Kingdom and Farber Telephone Companies state that the interest rate expense increase would cost them $2,150, $7,200 and $3,000, respectively.
        ii. Northeast Missouri Telephone Company estimates that programming changes to give information on bills pursuant to 4E of the rule would cost it $1,000.

2. The estimated number of entities affected by the proposed rule reflects the number of companies responding with fiscal impact information.

3. Cost of compliance with the rule by the affected entities reflects the total projected cost over a five year period for those companies who have responded with projected fiscal impact information. Some entities indicated their actual cost may be greater than the amount projected.

IV. ASSUMPTIONS

1. The life of the rule is estimated at five years.

2. Fiscal year 1998 dollars are used to estimate costs. No adjustment for inflation is applied.

3. Estimates assume no sudden change in technology that would influence costs.

4. Affected entities are assumed to be in compliance with all other MoPSC rules and regulations.

5. The universe of entities is based on fiscal year 1998 data and is assumed to remain constant.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 33—Service and Billing Practices for Telephone Utilities

PROPOSED RESCISSION

4 CSR 240-33.060 Inquiries. This rule established procedures to be followed when customers made inquiries of telephone utilities so that such inquiries were handled in a reasonable manner.

PURPOSE: This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.

AUTHORITY: sections 386.040, 386.250 and 392.200, RSMo 1986. Original rule filed Jan. 14, 1977, effective Oct. 1, 1977. Rescinded: Filed Aug. 26, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102, (573) 751-3234. To be considered, comments shall be filed on or before November 12, 1999. Comments should refer to Case No. TX-2000-165, and be filed with an original and fourteen copies. A public hearing is scheduled for November 15, 1999, at 9:00 a.m. in room 520B of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri, for interested persons to appear and respond to commission questions.

SPECIAL NEEDS: Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten days prior to the hearing at one of the following numbers: Consumer Services Hotline 1-800-392-4211, or TDD Hotline 1-800-829-7541.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 33—Service and Billing Practices for *[Telephone Utilities] Telecommunications Companies*

PROPOSED RULE

4 CSR 240-33.060 Residential Customer Inquiries

PURPOSE: This rule establishes procedures to be followed when residential customers make inquiries of telecommunications companies so that such inquiries are handled in a reasonable manner.

(1) A telecommunications company shall adopt procedures which will ensure the prompt and thorough receipt, investigation and, where possible, resolution of inquiries. The telecommunications company, upon request, shall submit the procedures to the commission and the telecommunications company shall notify the commission of any substantive changes in these procedures prior to their implementation.

(2) A telecommunications company shall establish personnel procedures which ensure that personnel shall be available during normal business hours to accept customer inquiries within a reasonable time after such inquiries are made by telephone or in person. Within a reasonable time after accepting such an inquiry, a telecommunications company will make available appropriate personnel to handle the inquiry. A telecommunications company shall provide a toll-free telephone number for customer inquiries.

(3) A telecommunications company shall prepare a statement which in layman's terms describes the rights and responsibilities of the telecommunications company and its customers under this chapter. This statement shall appear in the front part of the telephone directory or the telecommunications company will mail or otherwise deliver such statement to its existing and new customers. Upon request the statement shall be submitted to the commission, its staff, or Office of the Public Counsel. The statement shall include descriptions of:

(A) Billing procedures;

(B) Customer payment requirements and procedures;

(C) Deposit and guarantee requirements;

(D) Conditions of termination, discontinuance and reconnection of service;

(E) Procedures for handling inquiries;

(F) A procedure whereby a customer may avoid discontinuance of service during a period of absence;

(G) Complaint procedures under 4 CSR 240-2.070;

(H) The telephone number and address of all offices of the Missouri Public Service Commission and the statement that this company is regulated by the Missouri Public Service Commission; and

(I) The address and telephone number of the Office of the Public Counsel and a statement of the function of that office.

AUTHORITY: sections 386.040, RSMo 1994 and 386.250 and 392.200, RSMo Supp. 1998. Original rule filed Jan. 14, 1977, effective Oct. 1, 1977. Rescinded and readopted: Filed Aug. 26, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule is estimated to cost private entities $300,000 in the aggregate.

NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102, (573) 751-3234. To be considered, comments shall be filed on or before November 12, 1999. Comments should refer to Case No. TX-2000-165, and be filed with an original and fourteen copies. A public hearing is scheduled for November 15, 1999, at 9:00 a.m. in room 520B of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri, for interested persons to appear and respond to commission questions.

SPECIAL NEEDS: Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten days prior to the hearing at one of the following numbers: Consumer Services Hotline 1-800-392-4211, or TDD Hotline 1-800-829-7541.

FISCAL NOTE
PRIVATE ENTITY COST

I. RULE NUMBER

Title: 4 – Department of Economic Development

Division: 240 – Public Service Commission

Chapter: 33 – Service and Billing Practices for Telecommunications Companies

Type of Rulemaking: Proposed Rule

Rule Number and Name: 4 CSR 240-33.060 Residential Customer Inquiries

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification* by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
	Class A Local Telephone Companies	
	Class B Local Telephone Companies	
	Class C Local Telephone Companies	
	Class Interexchange Companies	
1	Class Payphone Providers	$300,000 (See worksheet Item 1A)
1	All entities	$300,000

* Class A Telephone Companies are incumbent local telephone companies with more than $100,000,000 annual revenues system wide; Class B Telephone Companies are incumbent local telephone companies with $100,000,000 annual revenues or less system wide; Class C Local Telephone Companies are all other companies certificated to provide basic local exchange telecommunications services, Class Interexchange Companies are long distance providers; Class Payphone Providers are private payphone providers.

III. WORKSHEET

1. A draft of the proposed rule was distributed to Class A Telephone Companies, Class B Telephone Companies, Class C Local Telephone Companies, Class

Interexchange Companies, and Class Payphone Providers certificated by the Missouri Public Service Commission as of June 1998. These companies were requested to review the rule and provide any projected fiscal impact projections, should the rule be approved as drafted. The above information reflects the responses of these companies.

A. Talton estimates that the rule would cost it $300,000 because of the requirement to give rights and responsibilities statements to customers

2. The estimated number of entities affected by the proposed rule reflects the number of companies responding with fiscal impact information.

3. Cost of compliance with the rule by the affected entities reflects the total projected cost over a five year period for those companies who have responded with projected fiscal impact information. Some entities indicated their actual cost may be greater than the amount projected.

IV. ASSUMPTIONS

1. The life of the rule is estimated at five years.

2. Fiscal year 1998 dollars are used to estimate costs. No adjustment for inflation is applied.

3. Estimates assume no sudden change in technology that would influence costs.

4. Affected entities are assumed to be in compliance with all other MoPSC rules and regulations.

5. The universe of entities is based on fiscal year 1998 data and is assumed to remain constant.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 33—Service and Billing Practices for Telephone Utilities

PROPOSED RESCISSION

4 CSR 240-33.070 Discontinuance of Service. This rule prescribed the conditions under which service to a customer might be discontinued and procedures followed by telephone utilities and customers regarding these matters so that reasonable and uniform standards existed for the discontinuance of service.

PURPOSE: This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.

AUTHORITY: sections 386.040, 386.250 and 392.200, RSMo 1986. Original rule filed Jan. 14, 1977, effective Oct. 1, 1977. Amended: Filed July 5, 1983, effective Feb. 11, 1984. Emergency amendment filed Dec. 20, 1983, effective Jan. 1, 1984, expired Feb. 11, 1984. Rescinded: Filed Aug. 26, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102, (573) 751-3234. To be considered, comments shall be filed on or before November 12, 1999. Comments should refer to Case No. TX-2000-166, and be filed with an original and fourteen copies. A public hearing is scheduled for November 15, 1999, at 9:00 a.m. in room 520B of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri, for interested persons to appear and respond to commission questions.

SPECIAL NEEDS: Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten days prior to the hearing at one of the following numbers: Consumer Services Hotline 1-800-392-4211, or TDD Hotline 1-800-829-7541.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 33—Service and Billing Practices for *[Telephone Utilities]* ***Telecommunications Companies***

PROPOSED RULE

4 CSR 240-33.070 Discontinuance of Service to Residential Customers

PURPOSE: This rule prescribes the conditions under which service to a residential customer may be discontinued and procedures to be followed by telecommunications companies and residential customers regarding these matters so that reasonable and uniform standards exist for the discontinuance of service.

(1) Telecommunications service may be discontinued for any of the following reasons:

(A) Nonpayment of a delinquent charge except as limited by sections (2), (3) and (4) of this rule;

(B) Failure to post a required deposit or guarantee;

(C) Unauthorized use of telecommunications company equipment in a manner which creates an unsafe condition or creates the possibility of damage or destruction to such equipment;

(D) Failure to comply with terms of a settlement agreement;

(E) Refusal after reasonable notice to permit inspection, maintenance or replacement of telecommunications company equipment;

(F) Material misrepresentation of identity in obtaining telecommunications company service; or

(G) As provided by state or federal law.

(2) Basic local telecommunications service may not be disconnected for customer nonpayment of a delinquent charge for other than basic local telecommunications services. The failure to pay charges not subject to commission jurisdiction shall not constitute cause for a discontinuance of basic local telecommunication service.

(3) Basic local telecommunications service shall not be discontinued on a day when the offices of a telecommunications company are not available to facilitate reconnection of basic local telecommunications service or on a day immediately preceding such day.

(4) Telecommunications service shall not be discontinued under section (1) of this rule unless written notice by first-class mail is sent or delivered to the customer at least ten (10) days prior to the date of the proposed discontinuance. Service of notice by mail is complete upon mailing. As an alternative, a telecommunications company may deliver a written notice by hand to the customer at least ninety-six (96) hours prior to discontinuance.

(5) A notice of discontinuance shall contain the following information:

(A) The name and address and the telephone number of the customer;

(B) A statement of the reason for the proposed discontinuance and the cost for reconnection;

(C) The date after which service will be discontinued unless appropriate action is taken;

(D) How a customer may avoid the discontinuance;

(E) The customer's right to enter into a settlement agreement if the claim is for a charge not in dispute and the customer is unable to pay the charge in full at one time;

(F) The telephone number where the customer may make an inquiry;

(G) A statement that this notice will not be effective if the charges involved are part of an unresolved dispute; and

(H) A statement of the exception for medical emergency under section (7) of this rule.

(6) At least twenty-four (24) hours preceding a discontinuance of basic local telecommunications service, a telecommunications company shall make reasonable efforts to advise the customer of the proposed discontinuance and what steps must be taken to avoid it. Reasonable efforts shall include either a written notice following the notice pursuant to section (4), a door hanger or at least two (2) telephone call attempts reasonably calculated to reach the customer.

(7) Notwithstanding any other provision of this chapter, a telecommunications company shall postpone a discontinuance for a time not in excess of twenty-one (21) days if service is necessary to obtain emergency medical assistance for a person who is a member of the household where the telephone service is provided and where such person is under the care of a physician. Any person who alleges such emergency, if requested, shall provide the

telecommunications company with reasonable evidence of such necessity.

(8) Upon the customer's request, a telecommunications company shall restore service consistent with all other provisions of this chapter when the cause of discontinuance has been eliminated.

(9) Payment by personal check may be refused if the customer, within the last twelve (12) months, has tendered payment in this manner and the check has been dishonored, except when the dishonor is due to bank error.

AUTHORITY: sections 386.040, RSMo 1994, 386.250 and 392.200, RSMo Supp. 1998. Original rule filed Jan. 14, 1977, effective Oct. 1, 1977. Amended: Filed July 5, 1983, effective Feb. 11, 1984. Emergency amendment filed Dec. 20, 1983, effective Jan. 1, 1984, expired Feb. 11, 1984. Rescinded and readopted: Filed Aug. 26, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule is estimated to cost private entities $35,985,780 in the aggregate.

NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102, (573) 751-3234. To be considered, comments shall be filed on or before November 12, 1999. Comments should refer to Case No. TX-2000-166, and be filed with an original and fourteen copies. A public hearing is scheduled for November 15, 1999, at 9:00 a.m. in room 520B of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri, for interested persons to appear and respond to commission questions.

SPECIAL NEEDS: Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten days prior to the hearing at one of the following numbers: Consumer Services Hotline 1-800-392-4211, or TDD Hotline 1-800-829-7541.

FISCAL NOTE
PRIVATE ENTITY COST

I. RULE NUMBER

Title: 4 – Department of Economic Development

Division: 240 – Public Service Commission

Chapter: 33 – Service and Billing Practices for Telecommunications Companies

Type of Rulemaking: Proposed Rule

Rule Number and Name: 4 CSR 240-33.070 Discontinuance of Service to Residential Customers

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification* by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
4	Class A Local Telephone Companies	$27,865,040 (See worksheet Item 1A)
8	Class B Local Telephone Companies	$579,580 (See worksheet Item 1B)
1	Class C Local Telephone Companies	$41,160 (See worksheet Item 1C)
(see Worksheet Item No. 4)	Class Interexchange Companies	$4,500,000 (See worksheet Item 1D)
1	Class Payphone Providers	$3,000,000 (See worksheet Item 1E)
14 + (see Worksheet Item No. 4)	All entities	$35,985,780

* Class A Telephone Companies are incumbent local telephone companies with more than $100,000,000 annual revenues system wide; Class B Telephone Companies are incumbent local telephone companies with $100,000,000 annual revenues or less system wide; Class C Local Telephone Companies are all other companies certificated to provide basic local exchange telecommunications services, Class Interexchange Companies are long distance providers; Class Payphone Providers are private payphone providers.

III. WORKSHEET

1. A draft of the proposed rule was distributed to Class A Telephone Companies, Class B Telephone Companies, Class C Local Telephone Companies, Class Interexchange Companies, and Class Payphone Providers certificated by the Missouri Public Service Commission as of June 1998. These companies were requested to review the rule and provide any projected fiscal impact projections, should the rule be approved as drafted. The above information reflects the responses of these companies.

A. Class A Companies

i. SWBT estimates that $25,211,040 would be spent to make two additional phone calls before customer disconnection for nonpayment.

ii. Sprint estimates that five more days more before basic local can be disconnected will cost $2.5 million, two additional telephone calls prior to service disconnection would cost $65,000, and programming changes would cost $89,000.

B. Class B Companies

i. BPS Telephone Company estimates that written notice or two phone calls before disconnection of service would cost it $8,750.

ii. Citizens' Telephone Company estimates that this rule would cost $1,000 to allocate payments between local and toll and $1,800 for two telephone call attempts before disconnection of service.

iii. Farber Telephone Company estimates that two extra telephone calls before disconnection would cost it $28 (or $1,680 for five years).

iv. Kingdom Telephone Company estimates that this rule would cost $500 to allocate payments between local and toll and the full service denial provision (2) would cost it $500,000 (over $100,000 per year). Two telephone calls prior to disconnection would cost it $3,540.

v. Green Hills Telephone Company estimates that the number of unpaid accounts from giving 10 days notice instead of five would increase and cost it $3,600. Green Hills also estimates that two calls prior to disconnection would cost it $5,550.00

vi. NEMO estimates that the rule would cost it $12,000 for two telephone calls prior to disconnection.

vi. Mark Twain Communications estimates that would incur $41,160 in costs to comply with sections 4,5 and 7 of the rule.

C. Class C company

i. Mark Twain Communications estimates that would incur $41,160 in costs to comply with sections 4,5 and 7 of the rule.

D. Interexchange carriers, Total impact was $4,500,000
   i. Comp-Tel (unknown number of members).

E. Payphone Providers
   i. Talton estimates that this rule would cost $3 million in increased bad debts because toll service cannot be disconnected.

2. The estimated number of entities affected by the proposed rule reflects the number of companies responding with fiscal impact information.

3. Cost of compliance with the rule by the affected entities reflects the total projected cost over a five year period for those companies who have responded with projected fiscal impact information. Some entities indicated their actual cost may be greater than the amount projected.

4. The projected fiscal impact was presented by a group of members of a Missouri interexchange carrier organization. The number of members contained in the organization remains unknown despite efforts to attempt to quantify the organization's membership.

IV. ASSUMPTIONS

1. The life of the rule is estimated at five years.

2. Fiscal year 1998 dollars are used to estimate costs. No adjustment for inflation is applied (i.e., wages, postage, cost of money or interest rates).

3. Estimates assume no sudden change in technology that would influence costs.

4. Affected entities are assumed to be in compliance with all other MoPSC rules and regulations.

5. The universe of entities is based on fiscal year 1998 data and is assumed to remain constant.

6. All disconnection notice calls will be made during regular business hours.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 33—Service and Billing Practices for Telephone Utilities

PROPOSED RESCISSION

4 CSR 240-33.080 Disputes. This rule established the procedures by which disputes between customers and telephone utilities were resolved so that reasonable and uniform standards existed for handling disputes.

PURPOSE: This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.

AUTHORITY: sections 386.040, 386.250 and 392.200, RSMo 1986. Original rule filed Jan. 14, 1977, effective Oct. 1, 1977. Rescinded: Filed Aug. 26, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102, (573) 751-3234. To be considered, comments shall be filed on or before November 12, 1999. Comments should refer to Case No. TX-2000-167, and be filed with an original and fourteen copies. A public hearing is scheduled for November 15, 1999, at 9:00 a.m. in room 520B of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri, for interested persons to appear and respond to commission questions.

SPECIAL NEEDS: Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten days prior to the hearing at one of the following numbers: Consumer Services Hotline 1-800-392-4211, or TDD Hotline 1-800-829-7541.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 33—Service and Billing Practices for *[Telephone Utilities]* ***Telecommunications Companies***

PROPOSED RULE

4 CSR 240-33.080 Disputes by Residential Customers

PURPOSE: This rule establishes the procedures by which disputes between residential customers and telecommunications companies should be resolved so that reasonable and uniform standards exist for handling disputes.

(1) A customer shall advise a telecommunications company that all or part of a charge is in dispute by written notice, in person or by a telephone message directed to the telecommunications company during normal business hours. A dispute must be registered with the utility at least twenty-four (24) hours prior to the date of proposed discontinuance for a customer to avoid discontinuance of service as provided by these rules.

(2) When a customer advises a telecommunications company that all or part of a charge is in dispute, the telecommunications company shall record the date, time and place the inquiry is made; investigate the inquiry promptly and thoroughly; and attempt to resolve the dispute in a manner satisfactory to both parties.

(3) Failure of a customer to cooperate with the telecommunications company in efforts to resolve an inquiry which has the effect of placing charges in dispute shall constitute a waiver of the customer's right to continuance of service under this chapter.

(4) If a customer disputes a charge, the customer shall pay an amount to the telecommunications company equal to that part of the total bill not in dispute. The amount not in dispute shall be mutually determined by the parties. The parties shall consider the customer's prior usage, the nature of the dispute and any other pertinent factors in determining the amount not in dispute.

(5) If the parties are unable to mutually determine the amount not in dispute, the customer shall pay to the telecommunications company, at the company's option, an amount not to exceed fifty percent (50%) of the charge in dispute or an amount based on usage during a like period under similar conditions which shall represent the amount not in dispute.

(6) Failure of the customer to pay to the telecommunications company the amount not in dispute within four (4) working days from the date that the dispute is registered or by the delinquent date of the disputed bill, whichever is later, shall constitute a waiver of the customer's right to continuance of service and the telecommunications company may then proceed to discontinue service as provided in this rule.

(7) If the dispute is ultimately resolved in the favor of the customer in whole or in part, any excess moneys paid by the customer shall be refunded promptly.

(8) If the telecommunications company does not resolve the dispute to the satisfaction of the customer, the telecommunications company representative shall notify the customer that each party has a right to make an informal complaint to the commission, and of the address and telephone number where the customer may file an informal complaint with the commission. If a customer files an informal complaint with the commission prior to advising the telecommunications company that all or a portion of a bill is in dispute, the commission shall notify the customer of the payment required by sections (5) and (6) of this rule.

(9) A telecommunications company may treat a customer complaint or dispute involving the same question or issue based upon the same facts as already determined and is not required to comply with these rules more than once prior to discontinuance of service.

AUTHORITY: sections 386.040, RSMo 1994 and 386.250 and 392.200, RSMo Supp. 1998. Original rule filed Jan. 14, 1977, effective Oct. 1, 1977. Rescinded and readopted: Filed Aug. 26, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule is estimated to cost private entities $1,500 in the aggregate.

NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360,

Jefferson City, MO 65102, (573) 751-3234. To be considered, comments shall be filed on or before November 12, 1999. Comments should refer to Case No. TX-2000-167, and be filed with an original and fourteen copies. A public hearing is scheduled for November 15, 1999, at 9:00 a.m. in room 520B of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri, for interested persons to appear and respond to commission questions.

SPECIAL NEEDS: Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten days prior to the hearing at one of the following numbers: Consumer Services Hotline 1-800-392-4211, or TDD Hotline 1-800-829-7541.

FISCAL NOTE
PRIVATE ENTITY COST

I. RULE NUMBER

Title: 4 – Department of Economic Development

Division: 240 – Public Service Commission

Chapter: 33 – Service and Billing Practices for Telecommunications Companies

Type of Rulemaking: Proposed Rule

Rule Number and Name: 4 CSR 240-33.080 Disputes by Residential Customers

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification* by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
	Class A Local Telephone Companies	
1	Class B Local Telephone Companies	$1,500 (See worksheet Item 1A)
	Class C Local Telephone Companies	
	Class Interexchange Companies	
	Class Payphone Providers	
1	All entities	$1,500

* Class A Telephone Companies are incumbent local telephone companies with more than $100,000,000 annual revenues system wide; Class B Telephone Companies are incumbent local telephone companies with $100,000,000 annual revenues or less system wide; Class C Local Telephone Companies are all other companies certificated to provide basic local exchange telecommunications services, Class Interexchange Companies are long distance providers; Class Payphone Providers are private payphone providers.

III. WORKSHEET

1. A draft of the proposed rule was distributed to Class A Telephone Companies, Class B Telephone Companies, Class C Local Telephone Companies, Class Interexchange

Companies, and Class Payphone Providers certificated by the Missouri Public Service Commission as of June 1998. These companies were requested to review the rule and provide any projected fiscal impact projections, should the rule be approved as drafted. The above information reflects the responses of these companies.

A. Class B Company

i. BPS Telephone Company estimates that this rule would cost it $1,500 over five years because it requires the telephone company to record the date, time, and place an inquiry is made about a disputed charge.

2. The estimated number of entities affected by the proposed rule reflects the number of companies responding with fiscal impact information.

3. Cost of compliance with the rule by the affected entities reflects the total projected cost over a five year period for those companies who have responded with projected fiscal impact information. Some entities indicated their actual cost may be greater than the amount projected.

IV. ASSUMPTIONS

1. The life of the rule is estimated at five years.

2. Fiscal year 1998 dollars are used to estimate costs. No adjustment for inflation is applied.

3. Estimates assume no sudden change in technology that would influence costs.

4. Affected entities are assumed to be in compliance with all other MoPSC rules and regulations.

5. The universe of entities is based on fiscal year 1998 data and is assumed to remain constant.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 33—Service and Billing Practices for Telephone Utilities

PROPOSED RESCISSION

4 CSR 240-33.090 Settlement Agreements. This rule established a procedure where a customer might obtain an extension of time in which to pay charges due a telephone utility so that reasonable and uniform standards were established with regard to payment extensions.

PURPOSE: This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.

AUTHORITY: sections 386.040, 386.250 and 392.200, RSMo 1986. Original rule filed Jan. 14, 1977, effective Oct. 1, 1977. Rescinded: Filed Aug. 26, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102, (573) 751-3234. To be considered, comments shall be filed on or before November 12, 1999. Comments should refer to Case No. TX-2000-168, and be filed with an original and fourteen copies. A public hearing is scheduled for November 15, 1999, at 9:00 a.m. in room 520B of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri, for interested persons to appear and respond to commission questions.

SPECIAL NEEDS: Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten days prior to the hearing at one of the following numbers: Consumer Services Hotline 1-800-392-4211, or TDD Hotline 1-800-829-7541.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 33—Service and Billing Practices for *[Telephone Utilities]* ***Telecommunications Companies***

PROPOSED RULE

4 CSR 240-33.090 Settlement Agreements with Residential Customers

PURPOSE: This rule establishes a procedure where a residential customer may obtain an extension of time in which to pay charges due a telecommunications company so that reasonable and uniform standards are established with regard to payment extensions.

(1) When a customer is unable to pay a charge in full when due, the telecommunications company to whom the charge is due shall permit the customer to enter into an initial settlement agreement under which the charge may be paid as mutually agreed to by both parties. A copy of the settlement agreement shall be delivered or mailed to the customer upon request by the customer.

(2) Matters treated by a settlement agreement shall not constitute a basis for a discontinuance as long as the terms of the settlement agreement are followed.

AUTHORITY: sections 386.040, RSMo 1994 and 386.250 and 392.200, RSMo Supp. 1998. Original rule filed Jan. 14, 1977, effective Oct. 1, 1977. Rescinded and readopted: Filed Aug. 26, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102, (573) 751-3234. To be considered, comments shall be filed on or before November 12, 1999. Comments should refer to Case No. TX-2000-168, and be filed with an original and fourteen copies. A public hearing is scheduled for November 15, 1999, at 9:00 a.m. in room 520B of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri, for interested persons to appear and respond to commission questions.

SPECIAL NEEDS: Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten days prior to the hearing at one of the following numbers: Consumer Services Hotline 1-800-392-4211, or TDD Hotline 1-800-829-7541.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 33—Service and Billing Practices for Telephone Utilities

PROPOSED RESCISSION

4 CSR 240-33.100 Variance. This rule established the procedure to be followed by a telephone utility or customer when either sought a variance from any provision of this chapter.

PURPOSE: This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.

AUTHORITY: sections 386.040, 386.250 and 392.200, RSMo 1986. Original rule filed Jan. 14, 1977, effective Oct. 1, 1977. Rescinded: Filed Aug. 26, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102, (573) 751-3234. To be considered,

comments shall be filed on or before November 12, 1999. Comments should refer to Case No. TX-2000-169, and be filed with an original and fourteen copies. A public hearing is scheduled for November 15, 1999, at 9:00 a.m. in room 520B of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri, for interested persons to appear and respond to commission questions.

SPECIAL NEEDS: Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten days prior to the hearing at one of the following numbers: Consumer Services Hotline 1-800-392-4211, or TDD Hotline 1-800-829-7541.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 33—Service and Billing Practices for *[Telephone Utilities] Telecommunications Companies*

PROPOSED RULE

4 CSR 240-33.100 Variance

PURPOSE: This rule establishes the procedure to be followed by a telecommunications company or customer when either seeks a variance from any provision of this chapter.

(1) Any telecommunications company or customer may request authority for a variance from any provision of this chapter and the commission may grant variances.

(2) A variance request shall be filed in writing in compliance with 4 CSR 240-2.060 with the secretary of the commission.

(3) Any variance granted by the commission shall be reflected in a tariff.

AUTHORITY: sections 386.040, RSMo 1994 and 386.250 and 392.200, RSMo Supp. 1998. Original rule filed Jan. 14, 1977, effective Oct. 1, 1977. Rescinded and readopted: Filed Aug. 26, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102, (573) 751-3234. To be considered, comments shall be filed on or before November 12, 1999. Comments should refer to Case No. TX-2000-169, and be filed with an original and fourteen copies. A public hearing is scheduled for November 15, 1999, at 9:00 a.m. in room 520B of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri, for interested persons to appear and respond to commission questions.

SPECIAL NEEDS: Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten days prior to the hearing at one of the following numbers: Consumer Services Hotline 1-800-392-4211, or TDD Hotline 1-800-829-7541.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 33—Service and Billing Practices for Telephone Utilities

PROPOSED RESCISSION

4 CSR 240-33.110 Commission Complaint Procedures. This rule set forth in this chapter the procedures followed in filing formal or informal complaints with the commission regarding matters covered in this chapter.

PURPOSE: This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.

AUTHORITY: sections 386.040, 386.250 and 392.200, RSMo 1986. Original rule filed Jan. 14, 1977, effective Oct. 1, 1977. Rescinded: Filed Aug. 26, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102, (573) 751-3234. To be considered, comments shall be filed on or before November 12, 1999. Comments should refer to Case No. TX-2000-170, and be filed with an original and fourteen copies. A public hearing is scheduled for November 15, 1999, at 9:00 a.m. in room 520B of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri, for interested persons to appear and respond to commission questions.

SPECIAL NEEDS: Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten days prior to the hearing at one of the following numbers: Consumer Services Hotline 1-800-392-4211, or TDD Hotline 1-800-829-7541.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 33—Service and Billing Practices for *[Telephone Utilities] Telecommunications Companies*

PROPOSED RULE

4 CSR 240-33.110 Commission Complaint Procedures

PURPOSE: This rule sets forth the procedures to be followed in filing formal or informal complaints with the commission regarding matters covered in this chapter.

(1) Any customer aggrieved by a violation of any rules in this chapter or the Public Service Commission laws of Missouri relating to telecommunications companies may file an informal or formal complaint under 4 CSR 240-2.070.

(2) If a telecommunications company and a customer fail to resolve a matter in dispute, the telecommunications company shall

advise the customer of his/her right to file an informal or formal complaint with the commission under 4 CSR 240-2.070.

(3) Pending the resolution of a complaint filed with the commission, the subject matter of such complaint shall not constitute a basis for discontinuance.

AUTHORITY: sections 386.040, RSMo 1994, 386.250 and 392.200, RSMo Supp. 1998. Original rule filed Jan. 14, 1977, effective Oct. 1, 1977. Rescinded and readopted: Filed Aug. 26, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102, (573) 751-3234. To be considered, comments shall be filed on or before November 12, 1999. Comments should refer to Case No. TX-2000-170, and be filed with an original and fourteen copies. A public hearing is scheduled for November 15, 1999, at 9:00 a.m. in room 520B of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri, for interested persons to appear and respond to commission questions.

SPECIAL NEEDS: Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten days prior to the hearing at one of the following numbers: Consumer Services Hotline 1-800-392-4211, or TDD Hotline 1-800-829-7541.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 33—Service and Billing Practices for *[Telephone Utilities] Telecommunications Companies*

PROPOSED RULE

4 CSR 240-33.120 Payment Deferral for Schools and Libraries that Receive Federal Universal Service Fund Support

PURPOSE: This rule establishes tariff filing requirements that will enable schools and libraries to receive Federal Universal Service Funding.

PUBLISHER'S NOTE: The publication of the full text of the material that the adopting agency has incorporated by reference in this rule would be unduly cumbersome or expensive. Therefore, the full text of that material will be made available to any interested person at both the Office of the Secretary of State and the office of the adopting agency, pursuant to section 536.031.4, RSMo. Such material will be provided at the cost established by state law.

(1) Each company that provides telecommunications services to eligible schools or libraries shall file a tariff amendment to offer discounted rates and services to eligible schools or libraries within thirty (30) days of the adoption of this rule.

(2) The discounts are available to the extent that they are funded by the Federal Universal Service Fund subject to the terms and conditions set forth in 47 CFR 54.500–54.517. Discounts on intrastate telecommunications services for eligible schools and libraries shall mirror the interstate discount as stated in the FCC Report and Order in CC Docket No. 96-45 (FCC 97-157), as adopted by the Missouri Public Service Commission in Docket No. TO-97-552. Any adjustments to the discount matrix shall be in accordance with the FCC's Report and Order in CC Docket No. 96-45 (FCC 97-157), paragraphs 538 and 542, or as adjusted in any future FCC decision or federal legislation on the subject. This rule incorporates by reference the Commission's Order Granting Interventions and Adopting Educational Discount Matrix issued in Case No. TO-97-552. This rule also incorporates by reference paragraphs 538 and 542 of the FCC's Report and Order issued in CC Docket No. 96-45 (FCC 97-157).

AUTHORITY: sections 386.040, RSMo 1994, 386.250 and 392.200, RSMo Supp. 1998. Original rule filed Aug. 26, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule is estimated to cost private entities $1,800 in the aggregate.

NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102, (573) 751-3234. To be considered, comments shall be filed on or before November 12, 1999. Comments should refer to Case No. TX-2000-171, and be filed with an original and fourteen copies. A public hearing is scheduled for November 15, 1999, at 9:00 a.m. in room 520B of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri, for interested persons to appear and respond to commission questions.

SPECIAL NEEDS: Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten days prior to the hearing at one of the following numbers: Consumer Services Hotline 1-800-392-4211, or TDD Hotline 1-800-829-7541.

FISCAL NOTE
PRIVATE ENTITY COST

I. RULE NUMBER

Title: 4 – Department of Economic Development

Division: 240 – Public Service Commission

Chapter: 33 – Service and Billing Practices for Telecommunications Companies

Type of Rulemaking: Proposed Rule

Rule Number and Name: 4 CSR 240-33.120 Payment Deferral for Schools and Libraries that Receive Federal Universal Service Support

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification* by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
	Class A Local Telephone Companies	
1	Class B Local Telephone Companies	$1,800 (See worksheet Item 1A)
	Class C Local Telephone Companies	
	Class Interexchange Companies	
	Class Payphone Providers	
1		$1,800

* Class A Telephone Companies are incumbent local telephone companies with more than $100,000,000 annual revenues system wide; Class B Telephone Companies are incumbent local telephone companies with $100,000,000 annual revenues or less system wide; Class C Local Telephone Companies are all other companies certificated to provide basic local exchange telecommunications services, Class Interexchange Companies are long distance providers; Class Payphone Providers are private payphone providers.

III. WORKSHEET

1. A draft of the proposed rule was distributed to Class A Telephone Companies, Class B Telephone Companies, Class C Local Telephone Companies, Class Interexchange Companies, and Class Payphone Providers certificated by the Missouri Public Service Commission as of June 1998. These companies were requested to review the rule and provide any projected fiscal impact projections, should the rule be approved as drafted. The above information reflects the responses of these companies.

A. Class B Company

i. BPS Telephone Company estimates that tariff filing for discounted rates will cost it $1,800 in attorney and administrative fees.

2. The estimated number of entities affected by the proposed rule reflects the number of companies responding with fiscal impact information.

3. Cost of compliance with the rule by the affected entities reflects the total projected cost over a five year period for those companies who have responded with projected fiscal impact information. Some entities indicated their actual cost may be greater than the amount projected.

IV. ASSUMPTIONS

1. The life of the rule is estimated at five years.

2. Fiscal year 1998 dollars are used to estimate costs. No adjustment for inflation is applied.

3. Estimates assume no sudden change in technology that would influence costs.

4. Affected entities are assumed to be in compliance with all other MoPSC rules and regulations.

5. The universe of entities is based on fiscal year 1998 data and is assumed to remain constant.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 33—Service and Billing Practices for *[Telephone Utilities] Telecommunications Companies*

PROPOSED RULE

4 CSR 240-33.130 Operator Service

PURPOSE: This rule establishes standards to be followed by telecommunications companies that provide operator services.

(1) The operator service provider will not bill for incomplete calls.

(2) The caller and billed party, if different from the caller, will be advised of the name of the operator service provider at the time of the initial contact.

(3) The operator service provider must provide a means to readily access general rate information prior to making a call, or in the case of a collect call, prior to accepting the charges for a call.

(4) The operator service provider will only place tariffed rates on customer bills.

(5) If local exchange company billing services are used, the name of the operator service provider will be listed on the bill if the local exchange company has multicarrier billing ability.

(6) The operator service provider will employ reasonable calling card verification procedures.

(7) The operator service provider will route all 0- and 00- emergency calls in the quickest possible manner to the appropriate local emergency service provider, at no charge.

(8) Upon request, the operator service provider will transfer calls to, or advise how to reach, other authorized interexchange carriers or the local exchange company. This service will be provided if billing can list the caller's actual origination point and an agreement exists between the operator service provider and the interexchange carriers or local exchange company.

AUTHORITY: sections 386.040, RSMo 1994, 386.250 and 392.200, RSMo Supp. 1998. Original rule filed Aug. 26, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102, (573) 751-3234. To be considered, comments shall be filed on or before November 12, 1999. Comments should refer to Case No. TX-2000-172, and be filed with an original and fourteen copies. A public hearing is scheduled for November 15, 1999, at 9:00 a.m. in room 520B of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri, for interested persons to appear and respond to commission questions.

SPECIAL NEEDS: Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten days prior to the hearing at one of the following numbers: Consumer Services Hotline 1-800-392-4211, or TDD Hotline 1-800-829-7541.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 33—Service and Billing Practices for *[Telephone Utilities] Telecommunications Companies*

PROPOSED RULE

4 CSR 240-33.140 Pay Telephone

PURPOSE: This rule establishes standards to be followed by telecommunications companies that provide pay telephone service.

(1) Customers using pay telephone equipment shall be able to reach the operator without charge and without the use of a coin.

(2) Customers using pay telephone equipment shall be able to reach local 911 emergency service, where available, without charge and without using a coin or, if 911 is unavailable, there shall be a prominent display on each instrument of the required procedure to reach local emergency service without charge and without using a coin.

(3) The pay telephone provider must provide a means to readily access rate information prior to making a call, or in the case of a collect call, prior to accepting the charges for a call.

(4) Pay telephone equipment shall allow the completion of local and toll calls.

(5) Pay telephone equipment shall permit access to directory assistance.

(6) Pay telephone equipment shall not block access to any local or interexchange telecommunications company.

(7) The following information shall be displayed in close proximity to all pay telephone equipment:

(A) The name, address and telephone number of the pay telephone service provider;

(B) The method of obtaining refunds;

(C) The procedure for reporting service difficulty;

(D) If applicable, the notice should state that the pay telephone does not accept incoming calls;

(E) The name of the telecommunications company handling 0+ long distance calls; and

(F) The method of obtaining long distance access.

AUTHORITY: sections 386.040, RSMo 1994, 386.250 and 392.200, RSMo Supp. 1998. Original rule filed Aug. 26, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102, (573) 751-3234. To be considered, comments shall be filed on or before November 12, 1999. Comments should refer to Case No. TX-2000-173, and be filed with an original and fourteen copies. A public hearing is scheduled for

November 15, 1999, at 9:00 a.m. in room 520B of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri, for interested persons to appear and respond to commission questions.

SPECIAL NEEDS: Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten days prior to the hearing at one of the following numbers: Consumer Services Hotline 1-800-392-4211, or TDD Hotline 1-800-829-7541.

Title 7—DEPARTMENT OF *[HIGHWAY AND]* TRANSPORTATION
Division 10—Missouri Highways and Transportation Commission
Chapter 6—Outdoor Advertising

PROPOSED AMENDMENT

7 CSR 10-6.010 Public Information. The commission is amending sections (2), (3) and (4), and removing all forms from the *Code of State Regulations*.

PURPOSE: This amendment updates the current area offices for interested persons to obtain information and materials about state outdoor advertising control.

(2) Organization. The Missouri Highways and Transportation Commission controls and acts by and through the *[Missouri Highway and Transportation Department]* **Missouri Department of Transportation** which is directed by the *[chief engineer]* **director of Transportation**. *[The state of Missouri is geographically divided into ten (10) Missouri Highway and Transportation Department districts with a district office in each district.]* **For purposes of this rule, the state is geographically divided into seven (7) areas.** Each *[district]* **area** office is headed by a *[district engineer]* **permit specialist** who is responsible to the *[chief engineer]* **outdoor advertising manager** for supervising all *[activities of the Missouri Highway and Transportation Department within that particular district]* **outdoor advertising activities within that area**. *[The following counties are included in the indicated district:]* **Counties in each area are as follows:** *[District]* **Area** No. 1 includes: *[Andrew, Atchison, Buchanan, Caldwell, Clinton, Daviess, DeKalb, Gentry, Harrison, Holt, Nodaway and Worth.]* **Barton, Bates, Cass, Cedar, Clay, Dade, Henry, Jackson, Johnson, Lafayette, Platte, St. Clair, Vernon;** *[District]* **Area** No. 2 includes: Adair, **Audrain,** *[Carroll,]* Chariton, **Clark,** *[Grundy, Howard,]* **Knox, Lewis,** Linn, *[Livingston,]* Macon, **Marion,** *[Mercer,]* **Monroe, Pike,** Putnam, **Ralls,** Randolph, *[Saline,]* Schuyler**, Scotland, Shelby,** *[and]* Sullivan*[.]***;** *[District]* **Area** No. 3 includes: *[Audrain, Clark, Knox, Lewis, Lincoln, Marion, Monroe, Montgomery, Pike, Ralls, Scotland, Shelby and Warren.]* **Benton, Boone, Callaway, Camden, Cole, Cooper, Gasconade, Hickory, Howard, Maries, Miller, Moniteau, Morgan, Osage, Pettis, Phelps, Pulaski, Saline;** *[District]* **Area** No. 4 includes: *[Cass, Clay, Henry, Jackson, Johnson, Lafayette, Platte and Ray.]* **City of St. Louis, Crawford, Franklin, Jefferson, Lincoln, Montgomery, Perry, Ste. Genevieve, St. Charles, St. Francois, St. Louis, Warren, Washington;** *[District]* **Area** No. 5 includes: *[Benton, Boone, Callaway, Camden, Cole, Cooper, Gasconade, Maries, Miller, Moniteau, Morgan, Osage and Pettis.]* **Barry, Christian, Dallas, Douglas, Greene, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Webster, Wright;** *[District]* **Area** No. 6 includes: *[Franklin, Jefferson, St. Charles, St. Louis and the City of St. Louis.]* **Bollinger, Butler, Cape Girardeau, Carter, Dent, Dunklin, Howell, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Reynolds, Ripley, Scott, Shannon, Stoddard, Texas, Wayne;** *[District]* **Area** No. 7 includes: *[Barry, Barton, Bates, Cedar, Dade, Jasper, Lawrence, McDonald, Newton, St. Clair and Vernon.]* **Andrew, Atchison, Buchanan, Caldwell, Carroll, Clinton, Daviess, DeKalb, Gentry, Grundy, Harrison, Holt, Livingston, Mercer, Nodaway, Ray and Worth.** *[District No. 8 includes: Christian, Dallas, Douglas, Greene, Hickory, Laclede, Ozark, Polk, Stone, Taney, Webster and Wright. District No. 9 includes: Carter, Crawford, Dent, Howell, Iron, Oregon, Phelps, Pulaski, Reynolds, Ripley, Shannon, Texas and Washington. District No. 10 includes: Bollinger, Butler, Cape Girardeau, Dunklin, Madison, Mississippi, New Madrid, Pemiscot, Perry, St. Francois, Ste. Genevieve, Scott, Stoddard and Wayne.]*

(3) How to Obtain Information and Materials. Information and materials regarding outdoor advertising control, including copies of sections 226.500–226.600, RSMo, administrative rules, application forms, maps of the interstate and primary highway systems, and district maps showing the location of the district offices and the counties within each district, may be obtained in person, by writing or by telephoning the *[D]***d**istrict *[E]***e**ngineer, *[Missouri Highway and Transportation Department]* **Missouri Department of Transportation**: *[District]* **Area** No. 1, *[3602 North Belt Highway—P.O. Box 287, St. Joseph, MO 64502, (816) 387-2350;]* **5117 East 31st Street, Kansas City, MO 64128, (816) 889-6353;** *[District]* **Area** No. 2, U.S. Route 63—P.O. Box 8, Macon, MO 63552, *[(816) 385-3176]* **(660) 385-3176**; *[District]* **Area** No. 3, *[Highway 61 South—P.O. Box 1067, Hannibal, MO 63401, (314)-248-2490;]* **1511 Missouri Boulevard, P.O. Box 718, Jefferson City, MO 65102, (573) 751-9289;** *[District]* **Area** No. 4, *[5117 East 31st Street, Kansas City, MO 64128, (816) 921-7104;]* **1590 Woodlake Drive, Chesterfield, MO 63017, (314) 340-4327;** *[District]* **Area** No. 5, *[1511 Missouri Boulevard—P.O. Box 718, Jefferson City, MO 65102, (314) 751-3322;]* **3025 East Kearney—P.O. Box 868, Springfield, MO 65801, (417) 895-7648;** *[District]* **Area** No. 6, *[1590 Woodlake Drive, Chesterfield, MO 63017-5712, (314) 340-4100;]* **2910 Baron Road, Poplar Bluff, MO 63901, (573) 840-9292;** *[District]* **Area** No. 7, *[3901 East 32nd Street—P.O. Box 1445, Joplin, MO 64802, (417) 629-3300;]* **U.S. Route 63—P.O. Box 8, Macon, MO 63552, (660) 385-8267.** *[District No 8, 3025 E. Kearney—P.O. Box 868, Springfield, MO 65801, (417) 866-3576; District No. 9, U.S. Business Route 63 North—P.O. Box 220, Willow Springs, MO 65793, (417) 469-3134; and District No. 10, U.S. Route 61 North of U.S. Route 60—P.O. Box 160, Sikeston, MO 63801, (314) 472-5333.]*

(4) Forms are available from the *[district engineer]* **outdoor advertising permit specialist** in each *[district]* **area**.

*AUTHORITY: section 226.530, RSMo [1986] **Supp. 1998**. Original rule filed April 11, 1972, effective April 30, 1972. Rescinded and readopted: Filed May 16, 1977, effective Oct. 15, 1977. Amended: Filed Jan. 16, 1990, effective June 11, 1990. Amended: Filed June 15, 1993, effective Jan. 31, 1994. Amended: Filed Aug. 31, 1999.*

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than $500 in aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Transportation, Mari Ann Winters, Secretary to the Commission, P.O. Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 7—DEPARTMENT OF *[HIGHWAY AND]* TRANSPORTATION
Division 10—Missouri Highway*s* and Transportation Commission
Chapter 6—Outdoor Advertising

PROPOSED AMENDMENT

7 CSR 10-6.015 Definitions. The commission is amending sections (1), (3), (6), (9), (10), (23), (26); adding sections (2), (12), (14), (24), (31), (32); deleting sections (29) and (30); and renumbering the remainder.

PURPOSE: This amendment updates division names, titles and deletes unnecessary provisions.

(1) Back-to-back sign, double-faced sign or V-type sign is a sign with two (2) sides or outdoor advertising faces, with not more than two (2) displays to each side or faces, with not more than two (2) displays to each side or facing, which are physically contiguous, or connected by the same structure or cross-bracing or located not more than fifteen feet (15') apart at their nearest point. Each face or side may be as large as *[twelve hundred (1200)]* **eight hundred (800)** square feet in area.

(2) Billboard means a sign available for lease to the public to advertise products or services to be seen by the traveling public from the adjacent roadway and is required to be permitted and pay fees.

[(2)] **(3)** Changed conditions means a change in facts or local ordinance**,** such as, but not limited to, discontinuance of a commercial or industrial activity, decrease in the limits of an urban area, reclassification of a secondary highway to interstate or **federal aid** primary **or National Highway System (NHS)** highway status, upgrading of an urban primary highway to freeway status or amendment of a comprehensive local zoning ordinance from commercial to residential or the like.

*[(3)]***(4)** *[Chief engineer]* **Director of transportation** means the *[chief engineer]* **director of transportation** of the *[Missouri Highway and Transportation Department]* **Missouri Department of Transportation** appointed by the Missouri Highways and Transportation Commission under section 226.040, RSMo or the *[chief engineer's]* **director of transportation's** authorized representative.

*[(4)]***(5)** Commercial or industrial activities are defined in section 226.540(5), RSMo.

*[(5)]***(6)** Commission means the Missouri Highway**s** and Transportation Commission.

*[(6)]***(7)** Department means the Missouri *[Highway and Transportation Department]* **Department of Transportation**.

*[(7)]***(8)** Directional and other official signs means only official signs and notices, public utility signs, service club and religious notices, public service signs and directional signs.

*[(8)]***(9)** Display means a single graphic design which advertises goods, services or businesses.

*[(9)]***(10)** District engineer means any one (1) of the ten (10) *[Missouri Highway and Transportation Department]* **Missouri Department of Transportation** district engineers or the district engineer's authorized representatives.

*[(10)]***(11)** Division means the *[maintenance and traffic]* **right-of-way** division unless otherwise specified.

(12) Double-stacked means sign faces placed one above another on a single structure. This definition shall not include faces or signs maintained in a side-by-side configuration.

*[(11)]***(13)** Erect means to construct, build, raise, assemble, place, affix, attach, create, paint, draw or in any other way bring into being or establish.

(14) Exempt billboard means a billboard erected by those organizations that are required to be permitted and are exempt from paying any fees. These organizations include religious, service, fraternal and veteran organizations.

*[(12)]***(15)** Federal or state law means a federal or state constitutional provision or statute or an ordinance or rule enacted or adopted by Missouri or a federal agency or a political subdivision in Missouri pursuant to a federal or state constitution or statute.

*[(13)]***(16)** Flashing means emitting a series of sudden and transient outburst of light.

*[(14)]***(17)** Highway means any existing highway or a project for which the commission's right-of-way division has authorized the purchase of right-of-way.

*[(15)]***(18)** Intermittent means occurring at intervals.

*[(16)]***(19)** Landmark signs means outdoor advertising determined by agreement between the commission and the secretary of transportation to have been lawfully in existence on October 22, 1965**,** and to be of historical or artistic significance under section 226.545, RSMo.

*[(17)]***(20)** Lawful means lawfully erected and in compliance with all other legal requirements including, but not limited to, permit requirements, payment of biennial inspection fees and in the case of nonconforming signs, the requirements of 7 CSR 10-6.060(3).

*[(18)]***(21)** Lawfully erected means erected prior to January 1, 1968 or erected after January 1, 1968**,** in compliance with the sizing, lighting, spacing, location, permit and all other requirements of sections 226.500–226.600, RSMo as provided by those sections at the erection date of the sign; or erected after January 1, 1968**,** and before March 30, 1972**,** in compliance with the sizing, lighting, spacing and location requirements in effect at the time of erection, but for which a permit was not obtained prior to March 30, 1972*.[.]*

*[(19)]***(22)** Maintain means allow to exist.

*[(20)]***(23)** Main-traveled way means the through traffic lanes of the highway, exclusive of frontage roads, outer roads, auxiliary lanes, ramps and all shoulders.

(24) Modify means altering, enlarging or extending the facing, raising or lowering the structure itself, the addition of lights or lighting, and the replacing or changing poles, bracing, or supports.

*[(21)]***(25)** Nonconforming sign or nonconforming outdoor advertising means a sign which was lawfully erected but which does not conform to the requirements of state statutes enacted at a later date or which later fails to comply with state statutes due to changed conditions.

(26) Normal business hours means the hours of 8 a.m. to 5 p.m.

*[(22)]***(27)** On-premises sign is limited to outdoor advertising which advertises—the sale or lease of the property upon which it is located, the name of the establishment or activity located upon the premises upon which it is located, or the principal products or services offered by the establishment or activity upon the premises upon which it is located.

*[(23)]***(28)** Outdoor advertising permit review committee consists of the assistant chief engineer-operations, *[the chief counsel]* **assistant chief engineer-design,** and the division *[engineer]* director of the *[maintenance and traffic]* **right-of-way** division or their designees.

*[(24)]***(29)** Parkland means any publicly-owned land which is designated or used as a public park, recreation area, wildlife or waterfowl refuge, or historic site.

*[(25)]***(30)** Premises is limited to improvements, buildings, parking lots, landscaping, storage or processing areas as well as any other contiguous land actually used in connection with the premises or for access.

(31) Readily accessible access means easy and convenient availability without obstruction and is maintained adjacent to an official roadway designated by a state, county or local authority and can be traversed by a regular passenger vehicle.

(32) Regular intervals means hours of operation posted and occurring uniformly on a regular basis.

*[(26)]***(33)** Scenic area means any area of particular scenic beauty or historic significance as determined by the federal, state or local officials having jurisdiction of the area and includes interests in land which have been acquired for the restoration, preservation and enhancement of scenic beauty (see 7 CSR 10-6.020).

*[(27)]***(34)** Secretary of transportation means the United States *[S]*secretary of *[T]***t**ransportation.

*[(28)]***(35)** Sign means outdoor advertising as defined by section 226.510(3), RSMo.

[(29) Specific tourist areas or economically impacted areas or specific areas of the state of Missouri in which there is a high concentration of tourist-oriented businesses means a specific area determined by the commission with the approval of the secretary of transportation under section 226.520(5), RSMo to be one which would suffer substantial economic hardship if signs providing directional information about goods and services in the interest of the traveling public in that area were removed under sections 226.500–226.600, RSMo.

(30) Specific tourist area sign(s) display(s) and device(s) providing directional information about goods and services in the interest of the traveling public means outdoor advertising lawfully erected before May 5, 1976 which provide directional information messages about goods and services in the interest of the traveling public and which are authorized to be maintained under section 226.520(5), RSMo and 23 U.S.C. 131(o).]

*[(31)]***(36)** Spot zoning for outdoor advertising or strip zoning for outdoor advertising means an amendment, variance or exception to the comprehensive local zoning ordinance classifying or zoning a parcel of land as commercial, industrial or suitable for outdoor advertising, out of harmony with the zoning classification or uses of surrounding land as determined by the chief engineer.

*[(32)]***(37)** State means the state of Missouri.

*[(33)]***(38)** Unlawful signs or unlawful outdoor advertising are those identified as unlawful in sections 226.580.1 and 226.580.2, RSMo and 7 CSR 10-6.080(2), and nonconforming signs which have failed to comply with the requirements of 7 CSR 10-6.060(3).

*[(34)]***(39)** Unzoned area means an area where there is no comprehensive zoning regulation. It does not include areas which have rural zoning classifications, land uses established by zoning variances or special exceptions under comprehensive local zoning ordinances.

*[(35)]***(40)** Unzoned commercial or industrial areas or unzoned commercial or industrial land is defined by section 226.540(4) and 226.540(5), RSMo and 7 CSR 10-6.040(2)(B).

*[(36)]***(41)** Urban area is defined in section 226.510(6), RSMo.

*[(37)]***(42)** Visible means capable of being seen, whether or not legible, without visual aid by a person of normal visual acuity. A person of normal visual acuity is any person licensed by Missouri to operate a motor vehicle upon the highways of this state.

*[(38)]***(43)** Zoned commercial or industrial areas or areas which are zoned industrial, commercial or the like per section 226.540(5), RSMo and which meet the requirements of 7 CSR 10-6.040(2)(C).

*AUTHORITY: sections 226.150, **RSMo 1994** and 226.530, RSMo [1986] **Supp. 1998**. Original rule filed May 16, 1977, effective Oct. 15, 1977. Amended: Filed Jan. 16, 1990, effective June 11, 1990. Amended: Filed Feb. 4, 1991, effective Aug. 30, 1991. Amended: Filed June 15, 1993, effective Jan. 31, 1994. Amended: Filed Aug. 31, 1999.*

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than $500 in aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Transportation, Mari Ann Winters, Secretary to the Commission, P.O. Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 7—DEPARTMENT OF *[HIGHWAY AND]* TRANSPORTATION
Division 10—Missouri Highways and Transportation Commission
Chapter 6—Outdoor Advertising

PROPOSED AMENDMENT

7 CSR 10-6.040 Outdoor Advertising in Zoned and Unzoned Commercial and Industrial Areas. The commission is amending sections (2), (3), (4), deleting section (5), renumbering section (6),

adding section (6), and removing Diagrams 1, 2, and 3 from the *Code of State Regulations*.

PURPOSE: This amendment clarifies business requirements and implements full compliance with business requirements prior to permit issuance and provides for billboards with automatic changing faces.

(2) Criteria for Determination of Zoned and Unzoned Commercial and Industrial Areas.

(C) Primary Use Test.

*PUBLISHER'S NOTE: Paragraphs (2)(C)1. and 2. remain as published in the **Code of State Regulations**.*

3. Recognizable. The purported commercial or industrial activity must be recognizable as a commercial or industrial enterprise as viewed from *[the main-traveled way]* **both directions of travel** of the adjacent interstate or primary highway. In addition, the activity must comply with each of the following:

A. Structure and grounds requirements—

(I) Area. Any structure to be used as a business or office must have an enclosed area of two hundred (200) square feet or more;

(II) Foundation. Any structure to be used as a business or office must be affixed on a slab, piers or foundation;

(III) Access. Any structure to be used as a business or office must have approved access from a roadway **and readily accessible by the motorist** to a defined customer parking lot adjacent to business building;

(IV) Utilities. Any structure to be used as a business or office must have normal utilities. Minimum utility service shall include: business telephone, electricity, water service and waste water disposal, all in compliance with appropriate local, state and county rules. Should a state, county or local rule not exist, compliance with minimum utility service shall be determined at the time of field inspection by the department's authorized representative;

(V) Identification. The purported enterprise must be identified as a commercial or industrial activity which may be accomplished by on-premises signing or outside visible display of product;

(VI) Use. Any structure to be used as a business or office must be used exclusively for the purported commercial or industrial activity; and

(VII) Limits. Limits of the business activity shall be in accordance with section 226.540(4), RSMo;

B. Activity requirements. In order to be considered a commercial or industrial activity for the purpose of outdoor advertising regulation, the following conditions must be met:

(I) *[The purported activity or enterprise shall be open for business and actively operated and staffed with personnel on the premises a minimum of four (4) hours each day and a minimum of five (5) days each week;]* **Hours must be posted and staffed accordingly or phone numbers for communication posted so that the public can contact the owner of the business activity or the designated employee(s) for an appointment at the business location during regular business hours;**

(II) The purported activity or enterprise shall maintain all necessary business licenses, occupancy permits, sales tax and other records as may be required by applicable state, county or local law or ordinance;

(III) A sufficient inventory of products must be maintained for immediate sale or delivery to the consumer. If the product is a service, it must be available for purchase on the premises; and

(IV) The purported activity or enterprise must be in active operation a minimum of one hundred eighty (180) days prior to the issuance of any outdoor advertising permit**. The one hundred eighty (180)-day time frame begins when the business activity is in compliance with commission business requirements**; and

*PUBLISHER'S NOTE: Subparagraph (2)(C)3.C. remains as published in the **Code of State Regulations**.*

(3) Standards for Allowed Signs.

(A) In General. Outdoor advertising shall be permitted only—

1. In accordance with the sizing, spacing, lighting and location requirements for outdoor advertising erected and maintained in zoned and unzoned commercial and industrial areas as authorized by section 226.540, RSMo;

2. On the same side of the interstate or **federal aid** freeway primary highway as the commercial or industrial activity;

3. Within six hundred feet (600') of the commercial or industrial activity or from any commercial or industrial structure meeting the structure and grounds requirements of subparagraph (2)(C)*[4.]***3.**A. of this rule; and

4. In accordance with department permit requirements (see 7 CSR 10-6.070).

(B) Measurement of Distances. Distances shall be measured along the nearest edge of the pavement between points directly opposite the signs along each side of the highway and shall apply only to signs located on the same side of the highway involved. The sign measurement points shall be those which yield the shortest distance between the structures. If the signs are angled or V-shaped, the nearest points of the structures to each other are to be used. *[(See Appendix A, Diagram 1.)]*

(4) Multiple Sign Structures. A back-to-back sign, double-faced sign or V-type sign is a sign with two (2) sides or outdoor advertising faces owned by the same sign owner which are physically contiguous, or connected by the same structure or cross-bracing or located not more than fifteen feet (15') apart at their nearest point. **Double-stacked structures are prohibited.** Each side or face of this multiple sign structure shall be considered as one (1) sign for the purpose of determining whether or not it complies with the sizing, lighting, spacing and location requirements of section 226.540, RSMo provided that each face or side of a multiple sign structure is limited to a total of *[twelve hundred (1200)]* **eight hundred (800)** square feet in area. The total area of each side or face shall be measured by the smallest square, rectangle, triangle, circle or contiguous combination of shapes which will encompass the display(s) of each side or face. *[(See Appendix B, Diagram 2.)]*

[(5) Appendix C, Diagram 3 contains examples of permitted locations and spacing for outdoor advertising.]

*[(6)]***(5)** Permits (see 7 CSR 10-6.070 for state permit requirements).

(6) A permit may be granted for an automatic changeable facing provided—

(A) The static display time for each message is a minimum of eight (8) seconds;

(B) The time to completely change from one message to the next is a maximum of two (2) seconds;

(C) The change of message must occur simultaneously for the entire sign face; and

(D) The application meets all other permitting requirements. Any such sign shall be designed such that the sign will freeze in one position if a malfunction occurs.

*AUTHORITY: sections 226.150, RSMo 1994 and 226.530, RSMo [1986] **Supp. 1998**. Original rule filed Feb 6, 1974, effective March 8, 1974. Amended: Filed June 9, 1975, effective July 9, 1975. Rescinded and readopted: Filed May 16, 1977, effective Oct. 15, 1977. Amended: Filed Jan. 16, 1990, effective June 11, 1990. Amended: Filed Feb. 4, 1991, effective Aug. 30, 1991. Amended: Filed June 15, 1993, effective Jan. 31, 1994. Amended: Filed Aug. 31, 1999.*

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than $500 in aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Transportation, Mari Ann Winters, Secretary to the Commission, P.O. Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 7—DEPARTMENT OF *[HIGHWAY AND]* TRANSPORTATION
Division 10—Missouri Highway*s* and Transportation Commission
Chapter 6—Outdoor Advertising

PROPOSED AMENDMENT

7 CSR 10-6.050 Outdoor Advertising Beyond Six Hundred Sixty Feet of the Right-of-Way. The commission is amending section (2).

PURPOSE: This amendment updates districts to the current areas.

(2) Determination of Urban Areas. The term urban area is defined by section 226.510(6), RSMo. That section also indicates how urban areas are determined. Maps of urban areas located within a department district are available for inspection at that *[district]* **area** office (see 7 CSR 10-6.010).

*AUTHORITY: sections 226.150**, RSMo 1994** and 226.530, RSMo [(1986)] **Supp. 1998**. Original rule filed May 16, 1977, effective Oct. 15, 1977. Amended: Filed Jan. 16, 1990, effective June 11, 1990. Amended: Filed June 15, 1993, effective Jan. 31, 1994. Amended: Filed Aug. 31, 1999.*

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than $500 in aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Transportation, Mari Ann Winters, Secretary to the Commission, P.O. Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 7—DEPARTMENT OF *[HIGHWAY AND]* TRANSPORTATION
Division 10—Missouri Highway*s* and Transportation Commission
Chapter 6—Outdoor Advertising

PROPOSED AMENDMENT

7 CSR 10-6.060 Nonconforming Signs. The commission is amending sections (2) and (3), and deleting subsection (2)(D) in its entirety and relettering subsection (2)(E).

PURPOSE: This amendment removes the specific tourist area signs category.

(2) Categories of Nonconforming Signs. Unless these signs are unlawful signs under section 226.580, RSMo and 7 CSR 10-6.080(2), the following nonconforming signs, subsections (2)(A)–*[(E)]***(D)** of this rule, may be maintained under the specified conditions:

[(D) Specific Tourist Area Signs. Specific tourist area signs are any signs which—were lawfully erected; displayed directional information about goods and services in the interest of the traveling public on May 5, 1976; are located within six hundred and sixty feet (660') of the nearest edge of the right-of-way visible from the main-traveled way of any highway which is a part of the interstate and primary highway system; are such that removal would work a substantial economic hardship in the specific tourist area; and fail to meet the sizing, lighting, spacing or location requirements of sections 226.500–226.600, RSMo or 7 CSR 10-6.020 because of changed conditions or state statutes enacted after these signs were erected. These nonconforming signs and the activities or attractions which they advertise must be located in the same specific tourist area for the signs to qualify as specific tourist area signs. These signs may be maintained subject to the criteria for maintenance of nonconforming signs, in section (3).

1. Message content. The message content on specific tourist area signs must identify goods and services in the interest of the traveling public as determined by the commission, with the approval of the secretary of transportation and contain directional information such as mileage, route numbers or exit numbers useful to the traveler in locating those goods and services. There is no prohibition against descriptive words or phrases and pictorial or photographic representation.

2. Criteria for selection of specific tourist areas. The commission shall determine with the approval of the secretary of transportation the geographic limits of specific tourist areas. Any county that qualifies under one (1) or more of the following criteria, or any qualifying counties which are contiguous, shall constitute a specific tourist area. The following counties qualify:

A. Any county that equals or exceeds the state norm in any one (1) or more of the following five (5) categories as computed from annual third quarter statistics from the Missouri Tourism Commission:

(I) The ratio of direct county tourism employees to the latest United States decennial general census county population expressed as a percentage;

(II) The amount of county direct wages attributed to tourism to the latest United States decennial general census county population expressed as dollars per person;

(III) The amount of direct county tourism sales income to the latest United States decennial general census county population expressed as dollars per person;

(IV) The ratio of direct county tourism employees to total county employee work force expressed as a percentage; and

(V) The ratio of direct county wages attributed to tourism to total county employee work force wages expressed as a percentage;

B. Any county which exceeds seventy percent (70%) of the value of any one (1) or more of parts (2)(D)2.A.(I)—(V). and which is contiguous to any county eligible under subparagraph (2)(D)2.A.; and

C. Any county within which is located any part or all of a major lake or a major traffic generator and which is contiguous to a county which qualifies under subparagraph (2)(D)2.A. of this rule. A major lake is any lake determined by the chief engineer to exceed seven thousand (7000) normal pool surface acres. A major traffic generator is any privately-owned activity or attraction determined by the chief engineer to attract in excess of five hundred thousand (500,000) visitors per year.

3. Determination of substantial economic hardship. The commission shall determine those nonconforming signs providing directional information about goods and services in the interest of the traveling public which the removal of from a specific tourist area will create a substantial economic hardship in the area. The commission will seek the approval of the secretary of transportation under 23 U.S.C. 131(o) to exempt any of these signs from removal;] and

*[(E)]***(D)** Landmark Signs. Any signs lawfully erected on or before October 22, 1965, including signs on farm structures or natural surfaces regardless of their advertising message at the date of erection, which are determined by the commission with the approval of the secretary of transportation to have been of historical or artistic significance on August 13, 1976, but which under state statutes enacted after these signs were erected or because of changed conditions fail to meet the sizing, spacing, lighting or location requirements of sections 226.500–226.600, RSMo or 7 CSR 10-6.020 are nonconforming signs. Landmark signs may be located either within six hundred sixty feet (660') of the nearest edge of the right-of-way and visible from the main-traveled way of any highway which is a part of the interstate or primary system or beyond six hundred sixty feet (660') of the right-of-way, visible from the main-traveled way of the interstate or primary system and erected with the purpose of its message being read from the traveled way. These landmark signs may be maintained subject to the criteria for maintenance of nonconforming signs in section (3).

(3) Criteria for Maintenance of Nonconforming Signs. Reasonable maintenance and repair of nonconforming signs is permissible**;** however, violation of any one (1) or more of the following subsections (3)(A)–(E) of this rule disqualifies any sign from being maintained as a nonconforming sign and subjects it to removal by the commission without the payment of just compensation:

(A) Message Content. Changes of advertising message content are permissible subject to the *[requirements of paragraphs (3)(A)1. and 2. of this rule.]* **following:**

[1. Specific tourist area signs. In order to continue to qualify as a specific tourist area sign after May 5, 1976, the sign's advertising message must continue to provide the directional information to goods and services in the interest of the traveling public advertising only the same activity or attraction that was advertised on May 5, 1976, except that the following changes in message or display content are permissible: a change in the activity or attraction name to reflect a sale or reorganization of the activity or attraction advertised on May 5, 1976; a change in brand name of goods or services advertised on May 5, 1976, provided the change relates to the same type of activity or attraction at the same location; a change in mileage, address, routing, course or direction; or a change in logo or art work.]

*[2.]***1.** Landmark signs. In order to continue to qualify as a landmark sign after August 13, 1976, the sign's advertising message shall not be substantially changed, except that a change in mileage, address, routing, course or direction is permissible;

(C) Size. The size or area of a sign shall not be increased *[or decreased]* after the date the sign becomes a nonconforming sign. A net decrease in the outside dimensions of the advertising copy portion of the device will be permitted. *[Any subsequent change in the outside dimensions of the sign will be permitted so long as it does not exceed the actual dimensions that department records indicate existed on the date the sign became a nonforming sign;]*

*AUTHORITY: sections 226.150, **RSMo 1994** and 226.530, RSMo [1986] **Supp. 1998**. Original rule filed May 16, 1977, effective Oct. 15, 1977. Amended: Filed Jan. 16, 1990, effective June 11, 1990. Amended: Filed June 15, 1993, effective Jan. 31, 1994. Amended: Filed Aug. 31, 1999.*

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than $500 in aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Transportation, Mari Ann Winters, Secretary to the Commission, P.O. Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 7—DEPARTMENT OF *[HIGHWAY AND]* TRANSPORTATION
Division 10—Missouri Highways and Transportation Commission
Chapter 6—Outdoor Advertising

PROPOSED AMENDMENT

7 CSR 10-6.070 Permits for Outdoor Advertising. The commission is amending sections (2), (4), and (6).

PURPOSE: This amendment defines tax exempt organizations, increases the time frame a permit owner has to erect a billboard once the permit is issued, and increases fees associated with billboard permit transfer of ownership.

(2) Outdoor Advertising Subject to Permit Requirement.

(C) Size. Size limitations and requirements are listed in section 226.540, RSMo. An addition of a temporary cut-out or extension up to thirty-three percent (33%) of the sign size will be allowed. A copy of the display contract or a letter outlying the beginning and ending dates of the display shall be furnished before the cut-out or extension is added.

(4) Permit Applications and Fees.

(A) Information. Any person may obtain permit application information, including copies of sections 226.500–226.600, RSMo, administrative rules, application forms, maps of the interstate and primary highway systems, and district maps showing the location of district offices and the counties within each *[district]* **area**, in person, by writing or by telephoning the district engineer

at any department district office. It is most efficient to contact the district engineer of the county in which the outdoor advertising is located (see 7 CSR 10-6.010).

(B) Filing of Permit Applications and Permit Fees. Sign owners or owners of the land on which outdoor advertising is located must apply for permits from the commission for outdoor advertising specified by section 226.550, RSMo (see section (2)). Permit applications must be—

1. Timely submitted. For new outdoor advertising to be erected, the application for permit shall be submitted before erecting or starting construction of any sign requiring a permit from the commission. The district engineer will cause a field inspection to be made of the proposed location to determine whether or not the site complies with the requirements of sections 226.500–226.600, RSMo. For all nonconforming outdoor advertising requiring a permit from the commission and for any other existing outdoor advertising lawfully erected, but for failure to obtain a permit prior to its erection from the commission, the application for permit must be submitted to and received by the district engineer within thirty (30) days of receipt by the applicant of a notice to remove outdoor advertising under section 226.580, RSMo from the commission specifying the failure to obtain or maintain a permit for a sign for which a permit and biennial inspection is required by section 226.550, RSMo. Failure of the applicant to timely submit an application for permit shall be cause for the district engineer to reject and return the application for permit;

2. Submitted to the district engineer for the county in which the outdoor advertising is located (see 7 CSR 10-6.010);

3. Submitted upon forms supplied by the commission. These forms will be supplied by the district engineer upon request. These forms must be completed in full. Incomplete or incorrectly completed permit application forms shall be rejected or returned by the district engineer to the applicant; and

4. Submitted to the district engineer along with the required permit fee.

A. The permit fee is twenty-eight dollars and fifty cents ($28.50), except for tax exempt religious organizations which shall be granted a permit for signs less than seventy-six (76) square feet without payment of the fee. For purpose of this rule, a tax exempt religious organization is one in which submits a copy of its certification of tax exempt status from the Internal Revenue Service along with its permit application. **Religious organizations as defined in subdivision (11) of section 313.005, RSMo, service organizations as defined in subdivision (12) of section 313.005, RSMo, veterans' organizations as defined in subdivision (14) of section 313.005, RSMo, and fraternal organizations as defined in subdivision (8) of section 313.005, RSMo, may be granted a permit for a sign less than seventy-six (76) square feet without payment of the permit fee.**

PUBLISHER'S NOTE: Subparagraphs (4)(B)4.B.–E. remain as published in ***Code of State Regulations****.*

(6) Permits.

(A) Issue and Use of Permit. Upon proper application and payment of fee for any sign eligible for a permit, the district engineer shall issue a one (1)-time permanent permit. The permit owner must erect the sign, if not already in existence within *[one hundred twenty (120) days]* **two (2) years** of the date the permit was issued by the commission. *[Consideration will be given upon written request to the district engineer that issued the permit to one (1) extension of time not to exceed sixty (60) days upon a showing of good and sufficient cause for the delay. The chief engineer shall determine whether or not the sign was erected within the specified or extended period of time.]* **The permit holder must contact the outdoor advertising office in that area in writing within thirty (30) days of the sign's erection. No permits will be granted at locations where illegal tree cutting has taken place.**

(B) Transfer of Permit. When a sign owner transfers ownership of a sign for which a permit is required by section 226.550, RSMo, the new sign owner *[or the owner of the land on which the sign is located within sixty (60) days of the date of transfer]* shall notify the commission by filing an application for transfer, along with a *[ten-dollar ($10)]* **twenty dollar ($20)-** fee, on a form supplied by the district engineer upon request with the district engineer that issued the original permit which is the district engineer for the county in which the sign is located (see 7 CSR 10-6.010). Applications must be completed in full. Incomplete or incorrectly completed application forms shall be rejected or returned by the *[district engineer]* **outdoor advertising permit specialist** to the applicant.

(C) Voiding of Permits *[and Permit Emblems]*. Any misrepresentation of material fact on any application under this section or violation of any one (1) or more of the requirements of this section shall be grounds for the district engineer to void the permit. Any existing sign is then maintained without a permit and subject to removal under sections 226.580, RSMo and 7 CSR 10-6.080(2). **Illegal tree cutting or trimming in front of a permitted sign or maintaining a sign via the state right-of-way shall be grounds for voiding a permit.** The district engineer shall notify the sign owner and the owner or occupant of the land on which the sign is or was located in writing of the voiding of the permit. Permit fees shall be retained by the commission. The district engineer shall issue a notice to remove outdoor advertising under section 226.580.3*[.]*, RSMo.

(8) Relocation **or Reconstruction**. Relocation **or reconstruction** of any sign for any reason whatsoever is a new erection as of the date the relocation **or reconstruction** is completed and these signs must then comply with the then effective sizing, lighting, spacing, location and permit requirements of sections 226.500–226.600, RSMo. Relocation **or reconstruction** of any sign voids any permit issued by the commission for that sign and the fee shall be retained by the commission. The district engineer shall issue a notice to remove outdoor advertising under section 226.580, RSMo. A new application for permit must be filed with the district engineer and the sign can only be relocated in compliance with the sizing, lighting, spacing and location requirements of sections 226.500–226.600, RSMo.

AUTHORITY: sections 226.150, ***RSMo 1994*** *and 226.530, RSMo [1986]* ***Supp. 1998****. Original rule filed May 16, 1977, effective Oct. 15, 1977. Amended: Filed Jan. 16, 1990, effective June 11, 1990. Amended: Filed June 15, 1993, effective Jan. 31, 1994. Amended: Filed Aug. 31, 1999.*

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in aggregate.

PRIVATE ENTITY COST: This proposed amendment will cost private entities approximately $25,420. See attached fiscal note.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Transportation, Mari Ann Winters, Secretary to the Commission, P.O. Box 270, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

FISCAL NOTE
PRIVATE ENTITY COST

I. RULE NUMBER

Title: 7 - Department of Transportation

Division: 10 - Missouri Highways and Transportation Commission

Chapter: 6 - Outdoor Advertising

Type of Rule Making: Proposed Rule Change

Rule Number and Name: 7 CSR 10-6.070(6)(B) Transfer of Permit

II. SUMMARY OF FISCAL IMPACT

Estimate of number of entities by class which would likely be affected by change of rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
27	Billboard Companies	$25,420.00

III. WORKSHEET

Additional Transfer Cost:

Per sign = $10.00 (x approx. 2,542 signs) $25,420.00

Overall Transfer Cost with fee increase:

Per sign = $20.00 (x approx. 2,542 signs) $50,840.00

IV. ASSUMPTIONS

(a) These private entity costs will recur each year for the life of the rule, however, the number of billboard companies may vary from year to year and are almost impossible to predict accurately.

Title 7—DEPARTMENT OF *[HIGHWAY AND]* TRANSPORTATION
Division 10—Missouri Highway*s* and Transportation Commission
Chapter 6—Outdoor Advertising

PROPOSED AMENDMENT

7 CSR 10-6.085 Cutting and Trimming of Vegetation on Right-of-Way. The commission is amending sections (1), (3), and (4).

PURPOSE: The primary purpose for this amendment is to comply with the Missouri Pesticide Use Act. Other purposes include a cash bond to be filed with the department prior to any work on the right-of-way and setting pruning operations to the National Arborist Association Standards.

(1) Permits. A permit is required to cut or trim any vegetation in front of any lawful sign. A separate permit is required for each sign structure. Permits to cut vegetation will be issued only for lawful signs which are at least five (5) years old. Permits to trim trees will be issued only after a lawful sign is at least two (2) years old. **A vegetation permit may be denied if the plan is deemed to be detrimental to the stability of the state right-of-way as determined by the roadside enhancement manager. In addition, the permit specialist or roadside enhancement manager may place stipulations or limitations on any vegetation trimming permit that protect natural or scenic features existing at the location of the proposed trimming.**

(A) Application. *[An excavation]* **A** permit application to do cutting and trimming shall be obtained from the *[district]* **area** office (see 7 CSR 10-6.010). Applicants shall serve a copy of their permit application upon adjacent property owners and shall provide proof of service at the time the application is filed in the *[district]* **area** office. Proof of service may be a copy of a certified return mail receipt. Objections by adjacent property owners may serve to limit the scope of the permit as prescribed in subsection (1)(C) of this rule.

(B) Fee. The cost of a permit for trimming and cutting is determined by the vegetation to be removed. All diameter measurements contained in this rule shall be measured at four and one-half feet (4 1/2') above ground level. There will no fee to trim trees in accordance with subsection (3)(F) of this rule or remove brush and trees with a diameter of less than six inches (6"), but a permit will still be required. The fee to remove each tree with a diameter equal to or greater than six inches (6") is one hundred dollars ($100) plus an additional one hundred dollars ($100) for every inch of diameter greater than six inches (6"). Measurements for diameter will be rounded down to the nearest inch. For example, the fee for trimming or removing a tree six and three-fourths inch (6 3/4") in diameter would be one hundred dollars ($100); the fee for a tree ten and one-half inches (10 1/2") in diameter would be five hundred dollars ($500). Also, a performance bond in an amount up to one thousand dollars ($1,000) shall be required if the district engineer or his/her representative deems it necessary to ensure restoration of highway right-of-way. Fees will be placed in a roadside enhancement fund and utilized by the department to plant trees and do other landscaping on highway right-of-way. **A cash bond equal to the amount of vegetation to be removed must be filed with the department prior to any work on the right-of-way. All fees must be paid prior to the commencement of any tree trimming.**

(D) Duration. All permits shall expire after *[thirty (30)]* **sixty (60)** days. *[Upon written request, extensions may be granted for an additional thirty (30) days, at the department's discretion. Only one (1) permit extension may be granted.]*

(3) Conditions. The following conditions shall apply to trimming and cutting of vegetation on highway right-of-way:

(D) Herbicides. Only herbicides approved by the district engineer may be used to trim or remove vegetation. **Only general use non-restricted herbicides may be used.** All herbicides must be used in strict accord with the manufacturer's instructions **on the label**. **Restricted use herbicides may not be used on right-of-way. Applicator must be a certified commercial applicator or under the supervision of a certified commercial applicator. The Missouri Department of Transportation (MoDOT) roadside enhancement manager or their authorized representative will approve the area to be sprayed before a permit is issued. Applicant must avoid desirable vegetation. Holder of the permit is liable for all damages or damage claims resulting from the herbicide application. Applicant must comply with the Missouri Pesticide Use Act, section 281.005 through 281.115, RSMo (as amended). In U.S. Forest Service areas, permit applicants must obtain written permission for use of herbicides from the district engineer. The fee for controlling the growth of a tree, with herbicides, is determined in the same manner as tree removal under subsection (1)(B). All trees controlled with herbicides, requiring a fee, shall be cut down and removed within sixty (60) days of treatment;**

(E) Indemnity. Applicants shall agree to indemnify and hold harmless the commission against any damage or harm to persons, including commission employees, or property which may occur as a result of or in the course of its cutting or trimming of vegetation and use of herbicides; *[and]*

(F) Trimming of Trees. Trees of any size may be trimmed in accordance with the following guidelines:

1. Trimming *[will not be allowed during the months of February, March and April; and]* **is permitted any time of year;**

2. *[Not more than one-third (1/3) of the total tree area should be pruned in a single operation.]* **A tree may not have more than one-third (1/3) of its canopy removed in a single pruning operation. For pruning operations, the "National Arborist Association Standards" shall be used as a guideline to insure trees are being pruned properly and all pruning must be done in accordance with "National Arborist Association Standards."** Pruning cuts should be made so that the tree may close the resulting wound as easily as possible. Generally, remove parts of a twig or branch at their origin. Remove tips of branches back to a good bud or to the next larger branch. The final pruning cut should be made along the natural branch collar and not flush with the trunk. **Any additional pruning of this magnitude cannot be repeated for three (3) full years (thirty-six (36) months) on hardwood species. A "Tree Pruning Chart" developed by MoDOT is used to determine the maximum amount of canopy that can be removed in a single pruning operation. A copy of the chart may be obtained by contacting the area permit specialist; and**

3. In situations where pruning is to be done on a stand of trees and it is not practical to distinguish individual trees from the stand, the stand of trees should be judged by the canopy height of the stand. The amount of tree height to be removed should be determined from the "Tree Pruning Chart" according to the canopy height of the stand of trees. Proper tree pruning practices are to be observed in reducing the height of the stand of trees, just as it would be for an individual tree. Brush over six feet (6') that is approved for removal should be cut first and the stump(s) treated with herbicides. Illustrations are available to assist in proper pruning. A copy may be obtained by contacting the area permit specialist; and

(G) Destruction of Vegetation. A vegetation permit will be revoked if an applicant destroys desired vegetation due to excessive trimming or inappropriate use of herbicides on vegetation. If the permit is revoked due to excessive trimming or

inappropriate use of herbicides, the department will retain and collect against any bonds filed.

(4) Appeal for Denial of Permit to Cut or Trim. If denied a permit to cut or trim, the applicant has twenty (20) working days to submit a written appeal to the division engineer, *[maintenance and traffic]* **Right-of-Way** *[d]***D**ivision, Missouri Highway**s** and Transportation Department, P.O. Box 270, Jefferson City, MO 65102.

*AUTHORITY: sections 226.150 and 226.585, RSMo [Supp. 1992] **1994** and 226.530, RSMo [1986] **Supp. 1998**. Original rule filed June 15, 1993, effective Jan. 31, 1994. Amended: Filed Aug. 31, 1999.*

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than $500 in aggregate.

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Title 9—DEPARTMENT OF MENTAL HEALTH
Division 25—Fiscal Management
Chapter 4—Vendor Procedures

PROPOSED AMENDMENT

9 CSR 25-4.040 Recovery of Overpayments to Providers. The department is amending sections (1)–(6) and adding sections (7)–(12). The department proposes to amend this rule to correspond with changes in section 630.460, RSMo Supp. 1996.

PURPOSE: This amendment revises the interest rate relative to the collection of overpayment made by the department to providers.

(1) Providers that deliver care, treatment, habilitation or rehabilitation services to clients under contract with the department may receive *[payments in excess of or contrary to the provisions of the contract with]* **an overpayment which must be repaid to** the department. *[These overpayments are due immediately and must be repaid by the provider within forty five (45) days after the overpayment are discovered or reasonably should have been discovered.]* **An overpayment is any payment by the department which is—**

(A) Greater than the contracted rate for a service less any portion paid by or on behalf of a client;

(B) For services not provided;

(C) For services not authorized in the contract; or

(D) For services provided contrary to the provisions of the contract.

(2) *[Upon discovery of]* **On determination** an overpayment **has been made**, the department, shall notify the provider **by certified mail** of the **amount of the** overpayment**, the basis of the overpayment** and **request reimbursement.***[the date the overpayment was or should have been discovered. The department shall determine whether the overpayment shall be repaid by applying a credit against a future payment due to the provider or by the provider issuing a refund to the department.]* **The date on the certified mail return receipt shall be the official date of notice of overpayment.**

[(3) Within fifteen (15) days of receipt of the notice of overpayments, a provider may request the division director for a review of the overpayment. The division director, in consultation with the deputy director administration, shall review the overpayment within fifteen (15) days of the request for review. The criteria which the division director shall consider in conducting the review include:

(A) Whether the overpayment was properly and reasonably determined;

(B) Whether extraordinary circumstances caused or resulted in the overpayments; and

(C) Whether the clients being served by the provider would be adversely impacted.] **(3) If the provider concurs with the overpayment, the provider should promptly contact the department and make arrangements for repayment to avoid interest charges. Any overpayment not repaid within forty-five (45) days from the date of notice shall accrue interest charges on the unpaid balance from the date of notice of overpayment.**

(4) If *[any overpayment is not fully repaid within forty-five (45) days of the due date, the department shall assess interest on the unpaid balance. Interest shall be charged beginning with the forty-sixth (46th) day after the due date at the rate of one and five tenths percent (1.5%) per month.]* **the provider does not concur with the overpayment, the provider may request a review of the overpayment by the department. This request must be made within thirty (30) days of receipt of the notice of overpayment. The department shall review the overpayment within fifteen (15) days of the request for review. If requested by the provider, the review will be conducted in person and the department will notify the provider of the date, time and place for the review. The criteria for the review shall be to—**

(A) Verify the overpayment was properly determined in accordance with the terms of the provider contract;

(B) Verify the overpayment amount has been properly calculated;

(C) Examine and accept additional documentation or other material from the provider; and

(D) Upon completion of the review, the department shall notify the provider of the results of the review in writing.

(5) *[If any overpayment plus interest is not fully repaid within six (6) months of the due date, the department may certify the amount due to the Department of Revenue, the Office of the Attorney General, or take other collection actions.]* **When the overpayment amount has been finally determined and after any review, if requested, the department shall initiate appropriate collection actions. If any portion of the overpayment consists of Medicaid claim payments, these claims shall be subject to recovery provisions of the Medicaid program and shall be referred to the Department of Social Services, Division of Medical Services for collection. Overpayment amounts due and payable to the Department of Mental Health shall be collected in accordance with the following provisions.**

(6) *[Payments received by the department shall first be applied to accrued interest and then to reduce the balance of the overpayment.]* **Whether or not the provider requests a review, the department and the provider have forty-five (45) days from the date of notice of overpayment to negotiate a repayment plan. A repayment plan may allow for payments over a specific time period and shall not exceed twelve (12)**

months. The repayment plan must be in writing and be signed by the department and the provider. If a repayment plan is not adopted, the overpayment is immediately due and payable.

(7) The department shall specify the method of repayment which may include direct payment by the provider, deduction from future amounts due to the provider, or both. The department shall maintain a record of each overpayment in an account showing the amount due, payments received and interest charged.

(8) An overpayment account shall be considered to be delinquent if—

(A) The account is not subject to a repayment plan and it is not repaid within forty-five (45) days from the date of notice of overpayment; or

(B) The account is subject to a repayment plan and an installment payment is not received within thirty (30) days of the installment due date.

(9) The department may take appropriate actions to recover delinquent amounts due to the department, which may include:

(A) Sending notices to the provider requesting immediate payment;

(B) Deducting the overpayment from amounts due to the provider by the department; and

(C) Filing a claim for debt offset with the Director of Revenue to recover the overpayment from any refunds due to the provider by the Department of Revenue.

(10) An overpayment account shall be considered to be in default if—

(A) The account is not subject to a repayment plan and is not fully repaid within six (6) months from the date of notice of the overpayments; or

(B) The account is subject to a repayment plan and is delinquent for more than three (3) months in installment payments.

(11) The department may take appropriate actions to seek recovery of overpayment accounts which are in default. These actions may include:

(A) Deducting the overpayment from amounts due to the provider by the department;

(B) Filing a claim for debt offset with the Director of Revenue to recover the overpayment from any refunds due to the provider by the Department of Revenue; and

(C) Certifying the overpayment to general counsel or the Office of the Attorney General to seek a judgment for settlement of the amount due.

(12) Interest shall be charged on any overpayment balance not repaid within forty-five (45) days of the date of notice of overpayment. Interest shall accrue from the date of notice of overpayment and be calculated on a daily basis. The interest rate to be charged on overpayments may vary and will be set for each calendar year. The rate of interest shall be the annual rate determined by the Department of Revenue, as provided in section 32.085, RSMo plus three (3) percentage points. Payments received by the department shall first be applied to accrued interest and then to reduce the balance of the overpayment.

*AUTHORITY: section 630.050, RSMo [1994] **Supp. 1998**. Emergency rule filed Aug. 3, 1984, effective Aug. 13, 1984, expired Dec. 10, 1984. Original rule filed Sept. 10, 1984, effective Dec. 13, 1984. Amended: Filed July 17, 1995, effective Feb. 25, 1996. Amended: Filed Sept. 1, 1999.*

PUBLIC ENTITY COST: This proposed amendment will result in a projected loss of $7,018 in state revenue to the state general revenue fund in FY 2000. Total loss in state revenue over the twenty year life of the rule is an estimated $90,930.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Mental Health, Jackie D. White, Deputy Director Administration, P.O. Box 687, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

PUBLIC ENTITY COST
9 CSR 25-4.040 Recovery of Overpayments to Providers

Prepared August 17, 1999 by Department of Mental Health, Office of Administration
Affected Agencies: Department of Mental Health, Office of the Director

EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Loss of interest revenue	7,018	7,090	7,163	7,236	7,310	7,385	7,461	7,537	7,615	7,693	7,771
	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0
Totals	7,018	7,090	7,163	7,236	7,310	7,385	7,461	7,537	7,615	7,693	7,771

EXPENDITURES	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Loss of interest revenue	7,851	7,932	8,013	8,095	8,178	8,262	8,346	8,432	8,518	8,606	8,694
	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0
Totals	7,851	7,932	8,013	8,095	8,178	8,262	8,346	8,432	8,518	8,606	8,694

Total for 20 life of the rule: 172,206

Assumptions:

1. Inflation of 2.5% per year is compounded for salaries and 3% for expenses.
2. Based on H.B. 1081, A.L. 1996, section 630.460, RSMo was revised to reduce the rate of interest the department will charge on overpayments. The old rate was 1 and 1/2 percent per month (18% annually). This was changed to "a rate not to exceed the annual rate established pursuant to the provisions of 32.065, RSMo, plus three percentage points." This refers to the rate established by the Department of Revenue which for FY 1999 is 8%. The department is charging 11% (8% plus three percentage points.) Amounts above for FY 1996 through 1998 are actual amounts collected. The remaining amounts are estimates using only the 2.5% inflation assumption.

Title 9—DEPARTMENT OF MENTAL HEALTH
Division 45—Division of Mental Retardation and Developmental Disabilities
Chapter 5—Standards

PROPOSED RULE

9 CSR 45-5.040 Missouri Alliance for Individuals with Developmental Disabilities

PURPOSE: The Missouri Alliance for Individuals with Developmental Disabilities (MOAIDD), is an organization of individuals with developmental disabilities and family members which shall conduct monitoring visits of individuals receiving services in facilities and agencies funded or certified by the Division of Mental Retardation and Developmental Disabilities. This monitoring shall be a component of the division's oversight of facilities, programs and services in accordance with section 633.0I0, RSMo. This rule defines terms, establishes principles and sets out the process by which MOAIDD conducts quality assurance reviews of agencies.

(1) The Missouri Alliance for Individuals with Developmental Disabilities (MOAIDD) Board shall be established by the Department of Mental Health, Division of Mental Retardation/Developmental Disabilities. The board shall be appointed by the division director.

(A) The MOAIDD Board shall be responsible for the development, modification, evaluation and continuing oversight of the consumer/family member monitoring system. The MOAIDD Board in cooperation with the Department of Mental Health, Division of Mental Retardation/Developmental Disabilities, shall determine necessary administrative, staffing and procedural functions of the monitoring system and shall advise the division on policy matters.

(B) Membership of the MOAIDD Board shall consist of fifteen (15) individuals with developmental disabilities and/or their family members who reside in the state of Missouri and share involvement in the life of their family member with developmental disabilities. At no time shall less than two (2) members of the board be individuals with developmental disabilities. One (1) individual shall be selected to serve from each of the eleven (11) regions of the state. Four (4) additional individuals shall be selected from the state to serve as at-large members.

(C) Board members shall not serve more than two (2) consecutive three (3)-year terms. Following a one (1)-year period off the board, an individual may be eligible to serve again.

(D) The board shall establish a constitution and bylaws, approved by the division, that sets forth its responsibilities, operating procedures and membership guidelines.

(2) Terms defined in sections 630.005 and 633.005, RSMo, are incorporated by reference for use in this rule. As used in this rule, unless the context clearly indicates otherwise, the following terms also mean:

(A) Agency quality assurance and/or enhancement plan—a written document prepared by the regional center and provider agency to address quality assurance issues;

(B) MOAIDD is a self-governing, volunteer organization consisting of individuals with developmental disabilities and family members established by the Department of Mental Health, Division of Mental Retardation and Developmental Disabilities, to assess the quality of life for people receiving services through the division;

(C) Certification unit—the unit within the Department of Mental Health that administers the certification process described in 9 CSR 45-5.010 for certain provider agencies;

(D) MOAIDD monitoring team—a volunteer team consisting of a team leader and at least one (1) team member;

(E) MOAIDD monitoring team leader—an experienced team member who has received MOAIDD team leader training;

(F) MOAIDD monitoring team member—a trained volunteer who participates in a MOAIDD visit;

(G) MOAIDD visit—a visit by a MOAIDD monitoring team with an individual receiving services through the division in order to ensure health, safety and individual rights as well as enhance the quality of life for that individual;

(H) Overriding concern—a significant concern in the individual's life which is identified during a MOAIDD visit and is not a red or yellow flag but should be addressed;

(I) Recommendation—a suggestion provided by the MOAIDD monitoring team which is intended to enhance the individual's quality of life;

(J) Red flag—an immediate threat to the individual's health and/or safety; and

(K) Yellow flag—a significant, but not an immediate threat to an individual's health, safety or rights.

(3) This section prescribes two (2) sets of indicators referred to as red and yellow flags.

(A) The following conditions shall be recorded as red flags:

1. The monitors suspect, for whatever reason, that the individual's health and safety are at immediate risk. This could include situations in which agency staff are not sufficiently trained and/or knowledgeable about or do not deal with threatening health, dietary, medicinal needs or prescribed equipment such that it constitutes an imminent or immediate threat; and

2. The monitors suspect, for whatever reason, that the individual(s)—

A. Is being verbally, physically or sexually abused;

B. Is being neglected;

C. Is the victim of verbal manipulation or other type of psychological mistreatment; or

D. Has been mechanically, physically and/or chemically restrained.

(B) The following conditions, if the monitor believes constitute a significant but not immediate threat to a person's health, safety and rights, shall be recorded as yellow flags:

1. The individual does not have a physician or dentist and/or does not see them at least annually;

2. The individual has experienced emotional or physical trauma and his/her needs have not been addressed;

3. Safety devices (smoke detectors, fire extinguishers, locks, railings, etc.) are missing or in need of repair;

4. There are no procedures, or practice, for emergency situations;

5. Residence appears to be an unhealthy environment (e.g., dirty, strong odors, mildew, wiring is exposed, electrical fixtures and/or plumbing fixtures are broken, broken furniture, unhealthy clutter, heating or air conditioning is inadequate or non-functioning, etc.);

6. The individual's ordinary living activities are unreasonably limited or restricted;

7. The individual is not provided with needed information or training that would allow him/her greater independence;

8. Community access rarely occurs or is limited by insufficient staff and/or available transportation;

9. Staff lacks adequate training on health/medical issues, cardiopulmonary resuscitation, first aid, physical management, nutritional management, drug side effects, seizures and allergies;

10. Staff lacks a means of communication with the individual(s) they serve;

11. There is insufficient staff or staff is unfamiliar with the individual, resulting in staff not meeting the needs of the individual;

12. There is evidence that the individual is, or has been, restricted from activities;

13. Staff is unfamiliar or untrained regarding the specific needs of the individual(s) they support (e.g., behavior, verbal, physical, psychological or recognition of abuse and neglect);

14. Medication is not stored or managed in a safe manner;

15. The individual is restricted from seeing family, friends or guardian;

16. The individual is not treated in a respectful manner by staff/administration;

17. Adaptive equipment is unavailable, broken or restricted from use; and

18. Other items, which may not be significant individually but cumulatively, represent a threat to the safety, health or rights of the individual.

(4) MOAIDD visits shall proceed according to the requirements set forth in this section.

(A) MOAIDD staff shall select at least one (1) individual from each residence where an agency provides residential service and shall notify the agency and regional center of the intent to visit.

(B) With the individual's permission, pre-visit surveys returnable within thirty (30) days, shall be sent to the individual's family/guardian, residential provider, service coordinator and, when appropriate, daily activities provider.

(C) A MOAIDD monitoring team shall conduct the visit and issue a written report within seventy-two (72) hours to the MOAIDD coordinator for further processing.

(D) The MOAIDD staff shall distribute the final report within thirty (30) days of the visit to the individual visited, guardian, agency, regional center director, district deputy director, certification unit (if the agency is Medicaid-waiver certified), members of the monitoring team and other persons designated by the individual visited or the individual's guardian.

(E) If the monitoring team identifies red flags, the team shall proceed as follows:

1. The team leader shall immediately contact the MOAIDD coordinator and remain on-site to provide additional information should this be necessary. The team leader shall leave the site only after the regional center director or designee arrives;

2. The MOAIDD coordinator shall immediately contact the regional center director or designee and the agency director and request that they go to the location where the red flag has been reported. Should the red flag result in an abuse and/or neglect investigation, the report of findings shall be recorded in the department's Incident and Investigation Tracking System. If the initial inquiry into the red flag does not warrant an abuse and/or neglect investigation, the regional center shall submit a written report of findings within two (2) working days of the inquiry to the MOAIDD coordinator and, if the agency is certified, to the certification unit; and

3. The regional center director shall incorporate in the agency's quality assurance plan the action steps which result from an investigation or inquiry. If the agency is certified and there are enforcement issues, the regional center director shall notify the certification unit.

(F) If the MOAIDD visit team identifies yellow flags, the team shall proceed as follows:

1. The team leader shall notify the MOAIDD coordinator within seventy-two (72) hours;

2. The MOAIDD coordinator shall contact the regional center director or designee and agency director to advise of yellow flag(s) and answer questions regarding visit findings;

3. The MOAIDD coordinator shall issue written notification of the yellow flag issues within two (2) working days following contact with the regional center and agency; and

4. The regional center director shall incorporate in the agency's quality assurance plan the action steps that result from the findings and notify the MOAIDD coordinator of the actions taken. If the agency is certified and there are enforcement issues the regional center shall notify the certification unit.

(G) If the MOAIDD monitoring team reports overriding concerns and/or recommendations, the regional center director shall incorporate in the agency's quality assurance and/or enhancement plan the action steps resulting from the concerns and recommendations. The regional center director shall provide a written report to the MOAIDD coordinator indicating action taken. If the agency is certified the regional center shall notify the certification unit of the action taken to address the overriding concerns and/or recommendations.

AUTHORITY: section 633.010, RSMo 1994. Original rule filed Sept. 1, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Mental Health, Attn: Jackie Coleman, Division of Mental Retardation and Developmental Disabilities, P.O. Box 687, Jefferson City, MO 65102. To be considered comments must be in writing and must be received within thirty days after publication in the ***Missouri Register****. No public hearing is scheduled.*

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 70—Division of Liquor Control
Chapter 2—Rules and Regulations

PROPOSED AMENDMENT

11 CSR 70-2.190 Unlawful Discrimination and Price Scheduling. The division is amending section (2).

PURPOSE: This amendment adds a new paragraph 3. to 11. CSR 70-2.190(2)(E) that will afford the wholesalers the option to sell price posted items in packaged case quantities that deviate from the standard case quantities.

(2) Pricing Rules to Prohibit Discrimination.

(E) Case Size. For the purpose of this regulation, a case of intoxicating liquor or a case of wine is declared to be a cardboard, wooden or other container, containing bottles of equal size filled with intoxicating liquor or wine of the same brand, age and proof. The following table depicts the number of bottles considered to be a case of various bottle sizes for both the English and metric systems of measure, for price scheduling purposes:

Size of Bottle	Number of Bottles per Case
Less than 6.3 oz	48, 60, 96, 120, 144, 192 or 240
8 oz up to, but not including, 10 oz	48
10 oz up to, but not including, 21 oz	24
21 oz up to, but not including, 43 oz	12
43 oz up to, but not including, 85 oz	6
85 oz up to and including 128 oz	3, 4 or 6

1. The Universal Coding of Alcoholic Beverages for Products by container size shall be used to code the bottle size. An item is declared to be either a bottle or a case of intoxicating liquor or wine scheduled as required.

2. All sizes less than one-half (1/2) pint or eight (8) ounces under the English system of measure shall be defined as miniatures to be sold to airlines and railroads. Under the metric system of measure, miniatures to be sold to airlines and railroads are defined as fifty (50) milliliters (1.7 ounces) for spirituous liquors and one hundred (100) milliliters (3.4 ounces) for vinous liquors. Case sizes for miniatures shall be 240, 192, 144, 120, 96, 60 and 48 bottles. Miniatures shall be sold in only one (1) case size for each bottle size sold.

3. If an intoxicating liquor or wine product is packaged by the manufacturer in a bottle quantity for that bottle size exceeding one (1) but either more or less than the case quantity for the bottle size listed in subpart (2)(E)2., a wholesaler may sell that package for a total price that reflects the same per bottle price as the per bottle price in the posted case price, if the wholesaler's invoice specifies the quantity in the package.

*AUTHORITY: section 311.660, RSMo [Supp. 1989] **1994**. This version of rule filed Dec. 22, 1975, effective Jan. 1, 1976. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Aug. 17, 1999.*

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Liquor Control, Hope Whitehead, State Supervisor, P.O. Box 837, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 23—Motor Vehicle

PROPOSED RULE

12 CSR 10-23.446 Notice of Lien

PURPOSE: This rule outlines the requirements for the perfection of a lien on a motor vehicle, trailer, all terrain vehicle, boat or outboard motor and provides for a transition period which permits the current certificate of title and lien perfection procedure to continue.

(1) A lien on a motor vehicle, trailer, all terrain vehicle, boat or outboard motor is perfected when a notice of lien meeting the requirements in section (2) is delivered to the director of revenue, whether or not the ownership thereof is being transferred. Delivery to the director of revenue may be physical delivery of the notice of lien to the director by mail or to the director or agent of the director in a Department of Revenue office. A received date stamp placed on the notice of lien by the director or his agent will be prima facie proof of the date of delivery. No title fee or ownership document is required to be submitted to the director of revenue by the lienholder with a notice of lien, and if the ownership is not being transferred, the lienholder may also submit the application for title, the ownership document and fee on behalf of the owner to have a new title produced reflecting the lien.

(2) A notice of lien for a motor vehicle, trailer, all terrain vehicle, boat or outboard motor may be either a form provided by the director of revenue entitled "Notice of Lien" or the lienholder's copy of the application for title and registration, and in either case containing the following information:

(A) Name and address of owner(s);

(B) Vehicle description, by make, model and vehicle identification number;

(C) Purchase date; and

(D) Name and address of lienholder(s).

(3) As used in this rule, the term "boat" includes all motorboats, vessels or watercraft as the terms are defined in section 306.010, RSMo.

AUTHORITY: sections 301.600 and 306.400, RSMo Supp. 1999. Emergency rule filed Aug. 18, 1999, effective Aug. 28, 1999, expires Feb. 23, 2000. Original rule filed Aug. 18, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost the state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105-0629. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

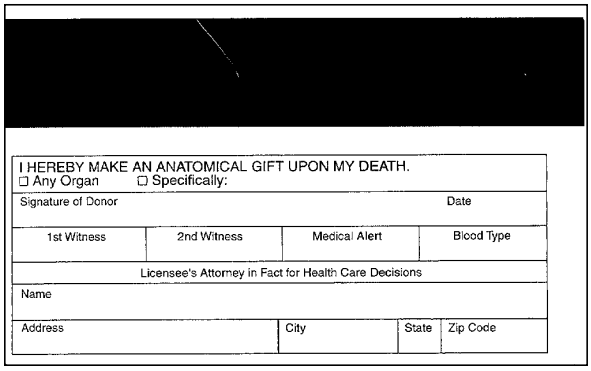
Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 24—Drivers License Bureau Rules

PROPOSED AMENDMENT

12 CSR 10-24.430 *Back of* Driver*[s]* License *[Back Label]*. The director proposes to amend the information on the back of the driver license.

PURPOSE: This proposed amendment amends the information that is on the back of the driver license.

(1) The attached *[form shall be placed]* **information, incorporated by reference, is** on the back of a person's driver*[s]* license to be used for designating anatomical gifts and the name and address of the person designated as the licensee's attorney in fact for the purposes of a durable power of attorney for health care decisions.


I HEREBY MAKE AN ANATOMICAL GIFT UPON MY DEATH.
☐ Any Organ ☐ Specifically:
Signature of Donor Date
1st Witness | 2nd Witness | Medical Alert | Blood Type
Licensee's Attorney in Fact for Health Care Decisions
Name
Address | City | State | Zip Code

*AUTHORITY: section 302.181, RSMo Supp. [1995] **1998**. Original rule filed Sept. 15, 1995, effective March 30, 1996. Amended: Filed Aug. 26, 1999.*

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 111—Sales/Use Tax

PROPOSED RULE

12 CSR 10-111.010 Machinery and Equipment Exemptions

PURPOSE: Section 144.030.2(4) and (5), RSMo, exempts from taxation certain machinery, equipment, parts, materials and supplies. This rule explains what elements must be met in order to qualify for these exemptions.

(1) In general, the purchase of machinery, equipment, parts, and the materials and supplies solely required for the installation or construction of such machinery, equipment and parts, are exempt from sales tax if they are for replacement or for a new or expanded plant and they are directly used in manufacturing, mining, fabricating or producing a product which is intended to be sold ultimately for final use or consumption.

(2) Definition of Terms.

(A) Establish a new manufacturing plant—The complete and final construction of a facility and all of its component parts. Construction shall be deemed completed within a reasonable period of time after production begins.

(B) Expand existing manufacturing plant—The purchase of additional machinery, equipment and parts as a result of the physical enlargement of an existing manufacturing, fabricating or mining facility; or the addition of machinery, equipment and parts constituting improvements that result in an actual or potential: i) increase in production volume at the plant, ii) increase in employment at the plant, or iii) increase in the number of types or models of products produced at the plant. This actual or potential increase is measured in relation to the actual or potential production volume, employment or types or models of products produced at the plant before the machinery, equipment and parts were originally put into use at the plant. Documentation which may be provided to establish the requisite intent for potential increase in production include, but are not limited to, the following: capital expenditure authorization requests, production records, production plans, purchase invoices, work authorizations, plant equipment cost savings analysis or reports and asset justification reports.

(C) Fabrication—The process of transforming an item into a higher stage of development. It does not imply or signify manufacturing, but the meaning of the term is limited to cutting, carving, dressing, shaping; advancing an elementary shape to a higher stage of development; reworking and cutting shapes to required length.

(D) Machinery and equipment—Devices that have a degree of permanence to the business, contribute to multiple processing cycles over time and generally constitute fixed assets other than land and buildings for purposes of business and accounting practices.

(E) Manufacturing—i) the alteration or physical change of an object or material to produce an article with a use, identity and value different from the use, identity and value of the original; or ii) a process which changes and adapts something practically unsuitable for any common use into something suitable for common use; or iii) the production of new and different articles, by the use of machinery, labor and skill, in forms suitable for new applications; or iv) a process that makes more than a superficial transformation in quality and adaptability and creates an end product quite different from the original; or v) requires the manipulation of an item in such a way as to create a new and distinct item, with a value and identity completely different from the original. Manufacturing does not include processes that restore articles to their original condition (e.g., cleaning, repairing); processes that maintain a product (e.g., refrigeration); or processes that do not result in a change in the articles being processed (e.g., inspecting, sorting).

(F) Mining—The process of extracting from the earth precious or valuable metals, minerals or ores. This process includes quarrying, but does not include equipment used for water-well drilling or reclamation performed to restore previously mined land to its original state.

(G) Parts—Articles of tangible personal property that are components of machinery or equipment, which can be separated from the machinery or equipment and replaced. Like machinery and equipment, parts must have a degree of permanence and durability. Items that are consumed in a single processing and benefit only one production cycle are materials and supplies, not parts. Items such as: nuts, bolts, hoses, hose clamps, chains, belts, gears, drill bits, grinding heads, blades, and bearings, would ordinarily be considered as parts. Substances such as fuels and coolants that are added to machinery and equipment for operation are not parts. Substances such as lubricants, paint and adhesives that adhere to the surface of machinery and equipment but are not distinct articles of tangible personal property, are not parts. These items would be considered as materials and supplies within the meaning of the exemptions.

(H) Producing—Includes the meanings of "manufacturing" and "fabricating," and is used in connection with the creation of intangibles that are taxable but which are not manufactured or fabricated in the sense those terms are commonly understood, e.g., information organized by computer and then sold on tangible media.

(I) Product which is intended to be sold ultimately for final use or consumption—Tangible personal property, or any service that is subject to state or local sales or use taxes, or any tax that is substantially equivalent thereto, in this state or any other state, which is intended at the time of manufacturing, mining or fabrication to be sold at retail. Property or services cannot be considered to be "subject to" the tax of a state unless the property or services are actually to be sold at retail in that state or delivered to a retail customer in that state.

(3) Basic Application of Exemption.

(A) Direct use—In determining whether machinery, equipment and parts are used directly in producing a product, Missouri has adopted the integrated plant theory that permits a broad construction of the machinery, equipment and parts exemptions. The language "used directly in" exempts purchases of articles that are both essential and comprise an integral part of the manufacturing process. It is not sufficient to meet only one of these requirements. For example, items used in material storage or handling before the manufacturing process begins may be essential to the process, but are not an integral part of the manufacturing process and are therefore not used "directly" in manufacturing. The factors which determine whether an article is directly used are: whether the item is essential or necessary to the process; how close, causally, is the item to the production process; and whether the item operates har-

moniously with other machinery to make an integrated and synchronized system. The direct use requirement is not limited to those items of machinery, equipment and parts that produce a direct physical change in the composition of the raw materials or work in process.

(B) New or expanded plant exemption—Pursuant to section 144.030.2(5), RSMo, purchases of machinery, equipment and parts to establish a new or to expand an existing manufacturing, mining or fabricating plant in Missouri which are used directly in manufacturing, mining or fabricating a product that is intended to be sold ultimately for final use or consumption are not subject to tax. Purchases of the materials and supplies solely required for the installation or construction of such machinery and equipment are not subject to tax.

(C) Purchase by other than end user—The exemptions for machinery, equipment and parts in section 144.030.2(4) and (5), RSMo, do not require that the owner of the facility be the purchaser to qualify for the exemption or that the purchaser be the one who uses the machinery, equipment and parts in an exempt fashion. All that is required is that the machinery, equipment and parts are used in a tax-exempt manner. These exemptions "flow through" to the owner. For example, a real property improvement contractor may purchase exempt from tax the machinery, equipment, parts, materials and supplies solely required for installation or construction of such replacement items, if such items are to be used in a tax-exempt manner by the owner.

(D) Replacement—To be exempt under section 144.030.2(4), RSMo, the machinery, equipment and parts must replace an existing piece of machinery, equipment or parts. This can include machinery, equipment, or repair and maintenance parts that are identical to the items they replace, as well as items that are different from the ones they replace, such as replacement machinery, equipment or parts added for the purpose of improving or modifying the existing devices. The replacement machinery, equipment and parts must be used in a process that produces a product intended to be sold ultimately for final use or consumption.

(E) Replacement machinery, equipment and parts—Pursuant to section 144.030.2(4), RSMo, purchases of replacement machinery, equipment and parts which are used directly in manufacturing, mining, fabricating or producing a product that is intended to be sold ultimately for final use or consumption are not subject to tax. Purchases of the materials and supplies solely required for the installation or construction of such replacement machinery, equipment and parts are not subject to tax.

(F) Use for nonexempt purposes—In order for the machinery and equipment to be exempt from tax it need not be used exclusively or primarily for an exempt purpose. The purchaser must intend at the time of purchase to use and actually make material use of the machinery and equipment in an exempt capacity to qualify. The fact that it may also be used for nonexempt purposes will not prevent the purchase of the item from qualifying for the exemption. If several like items are purchased, some for exempt purposes and some for nonexempt purposes, only the number of items essential for the exempt use qualify for the exemption.

(4) Examples.

(A) A manufacturing company builds a physical addition to its existing building. It purchases new machinery to set up another assembly line to be located in the new addition. The new machinery may be purchased under the expanded plant exemption.

(B) A fabricating company purchases additional machinery to establish a second assembly line but it does not physically expand its existing building. Production capability is increased from five thousand (5,000) units a day to seven thousand five hundred (7,500) units per day. The machinery may be purchased under the expanded plant exemption.

(C) A manufacturing company purchases additional machinery to establish a second assembly line. It does not increase its existing building nor does it increase its production volume. The additional machinery does result in the hiring of three (3) additional employees. The machinery may be purchased under the expanded plant exemption.

(D) A manufacturing company purchases various parts including replacement parts, new parts for the purpose of modifying existing equipment to make it more efficient, and related materials and supplies to install the parts. The replacement parts, the new parts for modifying the equipment and the materials and supplies for the installation of these parts may be purchased under the replacement machinery, equipment and parts exemption.

(E) A fabricating company intends to build a new plant and have it up and running within a year. Some of the equipment that was originally intended to be part of the new plant does not arrive until three (3) months after the plant is completed. This equipment would be covered by the new plant exemption, because it was originally intended to be part of the new plant.

(F) A manufacturing company purchases various pieces of testing equipment for different purposes, including: i) to ensure that the seller's product meets the tolerances claimed in its marketing literature, ii) to meet the customers' specification requirements mandated by the sales agreement, and iii) to perform research and development on potential future products. The testing equipment for the first two (2) situations are directly used to manufacture a product intended to be sold ultimately for final use or consumption and would qualify for exemption. The testing equipment for research and development is not directly used in manufacturing a product intended to be sold ultimately at retail and, therefore, would not qualify for exemption.

(G) A ceramic greenware manufacturer purchases six (6) initial greenware mug molds, which it is going to use to manufacture greenware mugs to be resold. All six (6) greenware mug molds would be exempt.

(H) A rock quarry purchases equipment to remove earth and overburden to expose the rock and to remove rock from the ground. It purchased separate equipment to crush the rock into gravel as a marketable product to be sold at retail. The equipment used to remove the overburden and rock from the ground would qualify as exempt mining equipment and the equipment used to crush the rock into gravel would qualify as exempt manufacturing equipment.

(I) A taxpayer operates a concrete manufacturing plant. It purchases three (3) replacement concrete mixing trucks and also adds four (4) additional concrete mixing trucks to expand its fleet. Taxpayer also purchased dump trucks to haul concrete slabs that had been manufactured in its plant. The replacement and new additional concrete mixing trucks are directly used in manufacturing and would qualify for the replacement machinery and equipment exemption in section 144.030.2(4), RSMo, and the expanded plant exemption in section 144.030.2(5), RSMo, respectively. The dump trucks would not qualify for exemption because they are not directly used in the manufacturing process. However, if the dump trucks were used in the plant to transport the slabs during the manufacturing process from one processing area to another within the manufacturing plant, these exemptions would apply.

(J) A taxpayer creates and sells a nontaxable information service product. To develop its product, taxpayer purchases computer hardware and software. Because taxpayer produces a nontaxable service product, it is not manufacturing a product intended to be sold ultimately for final use or consumption and, therefore its purchases of computer equipment are not exempt from tax.

(K) A taxpayer has exempt machinery and equipment used directly in manufacturing a taxable product. Taxpayer purchases: i) fuels, lubricants, and coolants for operation of the machinery and equipment; ii) paint and adhesives which will adhere to the surface of the machinery and equipment; and iii) replacement hoses and belts for the machinery and equipment. The fuels, lubricants, coolants, paint and adhesives added to the machinery and equipment for operation are not parts within the meaning of the exemptions. These items are materials and supplies. They are exempt only if used for installation or construction of exempt machinery, equipment and parts. The hoses and belts may be purchased exempt from tax because they qualify as replacement parts.

(L) A manufacturing company has two (2) sets of storage devices. The first set stores work in process between two (2) separate production areas. The second set stores the finished goods after the manufacturing process has been completed. The first set of storage devices is used directly in manufacturing and thus falls within the exemption. The second set of devices is not directly used in manufacturing and is subject to tax.

(M) A manufacturing company uses pneumatic powered tools directly on its assembly line. It also has hand tools used to repair or adjust the machines throughout the plant. The pneumatic powered tools are exempt as machinery and equipment directly used in manufacturing. The hand tools do not qualify as machinery and equipment directly used in manufacturing and are taxable.

(N) A commercial photo developer uses "crop cards" to hold individual negatives in the film developing process which are discarded after a single use. The developer also uses tape to connect negative strips so that the negatives may be fed through its automatic film developing machinery and equipment. The crop cards and tape are consumable supplies, not parts or equipment, and therefore are subject to tax.

(O) A steel company manufactures steel products. It purchases train carloads of steel beams that are used in the plant to produce the products. The crane used to unload the steel beams at the plant is part of the integrated and synchronized system and is used directly in the manufacturing process. As long as there is a continuous progression from raw materials to finished product and there are no extended interruptions in the manufacturing process, the integrated and synchronized system begins when raw materials enter the plant site and ends when the finished product leaves the plant site.

(P) A taxpayer sells and installs computer hardware and software and provides information technology services to its customers. The hardware and software are tangible personal property subject to sales tax. The technology services are not subject to tax in Missouri but are subject to tax and the taxpayer remits sales tax to Texas. The taxpayer's purchase of machinery and equipment to develop its products and services is intended to manufacture a taxable product or a taxable service intended to be sold ultimately for final use or consumption. The purchase of machinery and equipment is exempt from tax.

(Q) A manufacturer purchases four (4) forklifts for use in its plant. The manufacturer intends to use two (2) forklifts to move work in process between two (2) manufacturing steps and the other two (2) for loading the finished product from its warehouse onto trucks. Even though all four (4) forklifts may be rotated between the functions, only the two (2) forklifts essential to the manufacturing process are exempt.

AUTHORITY: section 144.270, RSMo 1994. Original rule filed Aug. 31, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Revenue, Office of Legislation and Regulations, P.O. Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Division of Family Services
Chapter 19—Energy Assistance

PROPOSED AMENDMENT

13 CSR 40-19.020 Low Income Home Energy Assistance Program. The Division of Family Services proposes to amend section (3) to reflect changes made in income levels based on Federal poverty guidelines.

PURPOSE: This amendment is being made to adjust the monthly income amounts on the LIHEAP Income Ranges Chart.

(3) Primary eligibility requirements for this program are as follows:

(D) Each household must have a monthly income no greater than the specific amounts based on household size as set forth in the Low Income Home Energy Assistance Program (LIHEAP) Income Ranges Chart. If the household size and composition of a*[n]* LIHEAP applicant household can be matched against an active food stamp case reflecting the same household size and composition, monthly income for LIHEAP will be established by using the monthly income documented in the household's food stamp file.

[LIHEAP Income Ranges Chart

Monthly Income Amounts

Household Size	*Income Range*	*Income Range*	*Income Range*	*Income Range*	*Income Range*
1	*$0–168*	*$169–336*	*$337–504*	*$505–672*	*$673–839*
2	*$0–226*	*$227–452*	*$453–678*	*$679–904*	*$905–1130*
3	*$0–262*	*$263–524*	*$525–786*	*$787–1048*	*$1049–1308*
4	*$0–315*	*$316–630*	*$631–945*	*$946–1260*	*$1261–1576*
5	*$0–369*	*$370–738*	*$739–1107*	*$1108–1476*	*$1477–1845*
6	*$0–423*	*$424–846*	*$847–1269*	*$1270–1692*	*$1693–2113*
7	*$0–476*	*$477–952*	*$953–1428*	*$1429–1904*	*$1905–2381*
8	*$0–530*	*$531–1060*	*$1061–1590*	*$1591–2120*	*$2121–2650*
9	*$0–584*	*$585–1168*	*$1169–1752*	*$1753–2336*	*$2337–2918*
10	*$0–637*	*$638–1274*	*$1275–1911*	*$1912–2548*	*$2549–3186*
11	*$0–691*	*$692–1382*	*$1383–2073*	*$2074–2764*	*$2765–3455*
12	*$0–745*	*$746–1490*	*$1491–2235*	*$2236–2980*	*$2981–3723*
13	*$0–798*	*$799–1596*	*$1597–2394*	*$2395–3192*	*$3193–3991*
14	*$0–852*	*$853–1704*	*$1705–2556*	*$2557–3408*	*$3409–4260*
15	*$0–906*	*$907–1812*	*$1813–2718*	*$2719–3624*	*$3625–4531*
16	*$0–959*	*$960–1918*	*$1919–2877*	*$2878–3836*	*$3837–4796*
17	*$0–1013*	*$1014–2026*	*$2027–3039*	*$3040–4052*	*$4053–5065*
18	*$0–1067*	*$1068–2134*	*$2135–3201*	*$3202–4268*	*$4269–5333*
19	*$0–1120*	*$1121–2240*	*$2241–3360*	*$3361–4480*	*$4481–5601*
20	*$0–1174*	*$1175–2348*	*$2349–3522*	*$3523–4697*	*$4698–5870]*

LIHEAP INCOME RANGES CHART

Monthly Income Amounts

Household Size	Income Range	Income Range	Income Range	Income Range	Income Range
1	$0–172	$173–344	$345–516	$517–688	$689–858
2	$0–230	$231–460	$461–690	$691–920	$921–1,152
3	$0–266	$267–532	$533–798	$799–1,064	$1,065–1330
4	$0–320	$321–640	$641–960	$961–1,280	$1,281–1,600
5	$0–374	$375–748	$749–1,122	$1,123–1,496	$1,497–1,871
6	$0–428	$429–856	$857–1,284	$1,285–1,712	$1,713–2,141
7	$0–482	$483–964	$965–1,446	$1,447–1,928	$1,929–2,411
8	$0–536	$537–1,072	$1,073–1,608	$1,609–2,144	$2,145–2,681
9	$0–590	$591–1,180	$1,181–1,770	$1,771–2,360	$2,361–2,952
10	$0–644	$645–1,288	$1,289–1,932	$1,933–2,576	$2,577–3,222
11	$0–698	$699–1,396	$1,397–2,094	$2,095–2,792	$2,793–3,492
12	$0–752	$753–1,504	$1,505–2,256	$2,257–3,008	$3,009–3,762
13	$0–807	$808–1,614	$1,615–2,421	$2,422–3,228	$3,229–4,033
14	$0–861	$862–1,722	$1,723–2,583	$2,584–3,444	$3,445–4,303
15	$0–915	$916–1,830	$1,831–2,745	$2,746–3,660	$3,661–4,573
16	$0–969	$970–1,938	$1,939–2,907	$2,908–3,876	$3,877–4,843
17	$0–1,023	$1,024–2,046	$2,047–3,069	$3,070–4,092	$4,093–5,114
18	$0–1,077	$1,078–2,154	$2,155–3,231	$3,232–4,308	$4,309–5,384
19	$0–1,131	$1,132–2,262	$2,263–3,393	$3,394–4,524	$4,525–5,654
20	$0–1,185	$1,186–2,370	$2,371–3,555	$3,556–4,740	$4,741–5,924

AUTHORITY: section 207.020, RSMo 1994. Emergency rule filed Nov. 26, 1980, effective Dec. 6, 1980, expired March 11, 1981. Original rule filed Nov. 26, 1980, effective March 12, 1981. For intervening history, please consult the ***Code of State Regulations****. Emergency amendment filed Sept. 2, 1999, effective Oct. 1, 1999, expires March 28, 2000. Amended: Filed Sept. 2, 1999.*

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of the Director, Division of Family Services, P.O. Box 88, Jefferson City, MO 65103. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Division of Family Services
Chapter 80—Maternity Home Tax Credit

PROPOSED AMENDMENT

13 CSR 40-80.010 Maternity Home Tax Credit. The division is amending sections (1), (2), (8) and (9), adding section (5) and renumber the remaining sections.

PURPOSE: This amended rule describes the procedures for the implementation of section 135.600, RSMo Supp. 1997, Maternity Home Tax Credit, to reflect the requirements of SB 159.

(1) Pursuant to section 135.600, RSMo, the following terms shall mean:

(A) "Contribution," a donation of cash, stock, bonds or other marketable securities, or real property;

[(A)] **(B)** "Maternity home," a residential facility located in this state which is exempt from income taxation under the United States *Internal Revenue Code* and is established for the purpose of providing housing and assistance to pregnant women who are carrying their pregnancies to term.

1. Any maternity home in Missouri serving women "under age eighteen (18)" must be licensed by the Division of Family Services pursuant to sections 210.481–210.536, RSMo;

[(B)] **(C)** "State tax liability," in the case of a business taxpayer, any liability incurred by such taxpayer pursuant to the provisions of Chapter 143, RSMo, Chapter 147, RSMo, Chapter 148, RSMo, and Chapter 153, RSMo, exclusive of the provisions relating to the withholding of tax as provided for in sections 143.191 to 143.265, RSMo, and related provisions, and in the case of an individual taxpayer, any liability incurred by such taxpayer pursuant to the provisions of Chapter 143, RSMo;

[(C)] **(D)** "Taxpayer," person, firm, a partner in a firm, corporation or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed by the provisions of Chapter 143, RSMo, or corporation subject to the annual corporation franchise tax imposed by the provisions of Chapter 147, RSMo, or an insurance company paying an annual tax on its gross premium receipts in this state, or other financial institution paying taxes to the state of Missouri or any political subdivision of this state pursuant to the provisions of Chapter 148, RSMo, or an express company which pays an annual tax on its gross receipts in this state pursuant to Chapter 153, RSMo, or an individual subject to the state income tax imposed by the provisions of Chapter 143, RSMo.

(2) Contribution(s) to a maternity home(s) must be equal or exceed **in value** one hundred dollars ($100) in a taxpayer's taxable year in order to qualify for a tax credit. A contribution may be cumulative to meet the one hundred dollar ($100)-minimum **value** to a maternity home or homes. The maximum amount to be contributed and to apply to a tax credit of qualifying contributions is fifty thousand dollars ($50,000) per taxpayer per taxable year.

(A) Tax credits for contributions to eligible maternity homes may be claimed for contributions made on or after January 1, *[1998]* **2000**; and

(B) Shall apply to all tax years after December 31, *[1997]* **1999**.

(5) Except for any excess credit which is carried over pursuant to section (4) of this rule, a taxpayer shall not be allowed to claim a tax credit unless the total amount of such taxpayer's contribution or contributions to a maternity home or homes in such taxpayer's taxable year has a value of at least one hundred dollars ($100).

[(5)] **(6)** The cumulative amount of tax credits which may be claimed, by all taxpayers contributing to maternity homes, in any one (1) fiscal year, shall not exceed two (2) million dollars.

[(6)] **(7)** Procedures to become an eligible maternity home and to apply for a tax credit.

(A) Annually, the director of the Department of Social Services or the director's designee will determine which facilities in Missouri may be classified as maternity homes. A facility must meet the definition stated in section (1) of this rule. In order for the director of the Department of Social Services to make such determinations the following information must be submitted:

1. Complete legal name of organization;
2. Complete address and telephone number;
3. Facility director's name;
4. A copy of certificate of incorporation;
5. Verification of **Internal Revenue Service (**IRS**)** tax exempt status; and
6. A brief program description to include ages of women served and capacity.

(B) All information should be submitted to: Division of Family Services, Residential Program Unit, P.O. Box 88, Jefferson City, MO 65103.

(C) Eligibility will need to be established annually for all unlicensed maternity homes. For calendar year 1998, the above information will be accepted by the Missouri Division of Family Services until October 1, 1998, to allow maternity homes to establish their eligibility and utilize the tax credit for their contributors. Beginning January 1, 1999, unlicensed maternity homes must submit the above information no later than January 31, of each calendar year, in order to maintain their eligibility for the maternity home tax credit.

(D) Maternity homes that are currently licensed by the Division of Family Services need not submit the information in subsection (6)(A) as this information will have been provided as a requirement for licensure. Licensed maternity homes will be automatically added to the approved maternity home listing.

[(7)] **(8)** Within thirty (30) days of receipt of all the information listed above, the Division of Family Services will notify the maternity home**,** in writing, of its approval status. Approved homes will automatically be added to the maternity home listing.

[(8)] **(9)** Annually, the director of the Department of Social Services or the director's designee will develop and maintain a maternity home listing of all eligible maternity homes in the state of Missouri.

(A) A copy of the maternity home listing will be made available to taxpayers upon request to the Division of Family Services.

(B) Requests should be made in writing to P.O. Box 88, Jefferson City, MO 65103.

(C) By calling *[(573) 751-4920]* **(573) 751-8934**.

[(9)] **(10)** An eligible maternity home shall report the receipt of any contribution it believes qualifies for the tax credit on a form provided by the division. This form shall subsequently be known as the Maternity Home Tax Credit Application.

(A) Maternity homes may request the *[T]***t**ax *[C]***c**redit *[A]***a**pplication by writing to the Missouri Division of Family Services, P.O. Box 88, Jefferson City, MO 65103.

(B) By calling *[(573) 751-4920]* **(573) 751-8934**.

(C) Maternity homes shall be permitted to decline a contribution from a taxpayer.

[(C)] **(D)** The *[T]***t**ax *[C]***c**redit *[A]***a**pplication shall be submitted to the division, by the maternity home, within thirty (30) days of the receipt of the contribution.

[(D)] **(E)** Within thirty (30) days of receipt of the Tax Credit Application, the division will provide notification of its decision to approve the application to the following parties:

1. Taxpayer;
2. Maternity home; and
3. Missouri Department of Revenue.

[(E)] **(F)** Within thirty (30) days of receipt of the tax credit application, the division will provide notification of its decision to deny the application to the following parties:

1. Taxpayer; and
2. Maternity *[H]***h**ome.

[(10)] **(11)** The division shall equally apportion the total available tax credits among all eligible maternity homes effective the first day of each state fiscal year (FY).

(A) The division shall inform each eligible maternity home of its share of the apportioned credits no later than thirty (30) days following the first day of each fiscal year.

(B) For FY 1998, the apportionment will be one hundred fifty-three thousand eight hundred forty-six dollars and fifteen cents ($153,846.15) per eligible maternity home.

[(11)] **(12)** Beginning FY 1999**,** the division shall review the cumulative amount of approved tax credits not less than quarterly from the first day of each fiscal year.

[(12)] **(13)** The division may reapportion available tax credits if, following the quarterly review, there exists maternity homes with unused tax credits while other maternity homes have exhausted, or nearly exhausted, their original apportioned tax credits.

(A) The division shall notify any maternity home so affected by the reapportioned tax credit within thirty (30) days of the reapportionment. The division's decision regarding reapportionment shall be final.

*AUTHORITY: sections 135.600, RSMo Supp. [1997] **1998** and 207.020, RSMo 1994. Emergency rule filed May 26, 1998, effective June 11, 1998, expired Feb. 25, 1999. Original rule filed May 26, 1998, effective Nov. 30, 1998. Amended: Filed Sept. 1, 1999.*

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Family Services, Keith Krueger, State Supervisor, Residential Program Unit, P.O. Box 88, Jefferson City, MO 65103. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 4—Conditions of Recipient Participation, Rights and Responsibilities

PROPOSED AMENDMENT

13 CSR 70-4.080 Children's Health Insurance Program. The division is amending sections (1), (2), (7), (11), (12) and (16).

PURPOSE: This amendment adds definitions to section (1); corrects the statutory citation in section (2); clarifies that thirty days notice is necessary to discontinue automatic withdrawal of premium payments in section (7); clarifies that health services may not be denied for failure to pay a mandatory co-payment; establishes a disqualification process for not paying mandatory co-payments in sections (11) and (12); and clarifies that applicants or recipients of the Children's Health Insurance Program have the opportunity for a fair hearing under section 208.080, RSMo.

(1) Definitions.

(C) Children. **A** *[P]***p**erson **or persons** up to nineteen (19) years of age.

(E) Health insurance carrier. An entity which may underwrite or administer a range of health benefit programs. May refer to an insurer or a managed health plan.

(F) Co-insurance. The portion of covered health care costs for which the covered person has a financial responsibility, usually according to a fixed percentage after first meeting a deductible requirement.

(G) Co-payment. A cost-sharing arrangement in which a covered person pays a specified charge for a specified service, such as ten dollars ($10) for a professional office visit.

(H) Deductible. The amount of eligible expense a covered person must pay each year before the health insurance carrier will make payment for eligible benefits.

(I) Parents. For purposes of this regulation the term parents can refer to a custodial parent, custodial parents, non-custodial parent or the child's legal guardian or guardians.

(J) Premium. The amount paid to a health insurance carrier for providing coverage under a contract.

(K) Employer-sponsored health insurance. Health insurance that is available to an employee when a specified employment status is met.

(2) *[An u]***U**ninsured *[child/]*children shall not have had health insurance for six (6) months prior to the month of application pursuant to *[208.185]* **section 208.631**, RSMo.

(7) *[An u]***U**ninsured *[child/]*children with available income above two hundred twenty-five percent (225%) and below three hundred percent (300%) of the federal poverty level shall be eligible for service(s) thirty (30) calendar days after the application is received if the required premium has been received.

(B) The premium must be paid prior to service delivery. **Parents may authorize automatic withdrawal from their checking or savings account for premium payment. If the parents authorize automatic withdrawal from their checking or savings account for premium payment, thirty (30) days notice must be given to the Division of Medical Services or its contractor to discontinue automatic withdrawal.**

(11) *[Parent(s) or guardian(s)]* **Parents** of uninsured children with available income above two hundred twenty-five percent (225%) and below three hundred percent (300%) of the federal poverty level are responsible for a co-payment at the time of professional service and for prescriptions.

(D) Providers may *[require]* **request** payment of the **mandatory** co-payment**(s)** prior to **or at any time after** service delivery**.** *[and]*

(E) *[s/***S**ervice**(s)** may **not** be denied for failure to *[make]* **pay the mandatory** co-payment**(s)**.

(F) No co-payments shall be required for well-baby and well-child care**,** including age-appropriate immunizations.

(G) The co-payment amount shall be deducted from the Medicaid maximum allowable amount for fee-for-service claims reimbursed by the Division of Medical Services.

(H) When a mandatory co-payment is not paid, the provider of service has the following options:

1. Forego the co-payment entirely;

2. Make arrangement for future payment with the parents; or

3. File a claim with the Division of Medical Services to report the non-payment of the mandatory co-payment and secure payment for the service from the Division of Medical Services.

(I) When the Division of Medical Services receives a claim from a provider for non-payment of the mandatory co-payment, the division shall send a notice to the parents—

1. Requesting information from the parents to determine if the mandatory co-payment was not made because there has been a change in the financial situation of the family;

2. Requesting that the parents reimburse the Division of Medical Services for the mandatory co-payment made on the children's behalf; and

3. Advising the parents of the possible loss of coverage for up to three (3) months if the parents fail to pay three (3) co-payments in one (1) year.

(J) The parents shall be allowed fourteen (14) calendar days to respond. If the parents indicate there has been a change in the financial situation of the family, the state shall redetermine eligibility—

1. If the eligibility redetermination places the recipient in a non-mandatory co-payment category, there will be no co-payment due; or

2. If the eligibility redetermination does not place the recipient in a non-mandatory co-payment category, another notice will be sent to the recipient about the mandatory co-payment provision of the program, which shall include the number of co-payments that have not been paid and how many may not be paid before a recipient is terminated from the program.

(K) Failure of the parents to pay three (3) co-payments within one (1) year shall establish a pattern of not meeting the mandatory co-payment requirements of the program. The process to terminate eligibility shall proceed after the third failure to pay a mandatory co-payment in any one (1) year—

1. A year starts at the time a co-payment is reported not paid to the Division of Medical Services;

2. An individual who pays a delinquent co-payment or co-payments will be able to eliminate the failure to pay a mandatory co-payment or co-payments.

(L) If the parents fail to pay the mandatory co-payments three (3) times within a year and the children are disenrolled from coverage, the children shall not be eligible for coverage for three (3) months after the department provides notice to the parents of the disenrollment from the Children's Health Insurance Program for failure to pay mandatory co-payments or until one (1) or more of the three (3) delinquent mandatory co-payments is made. Coverage shall begin again only after payment of one (1) or more of the three (3) co-payments or passage of three (3) months time whichever occurs first. Coverage shall not be retroactive.

(12) *[Parent(s)or guardian(s)]* **Parents** of uninsured children with income above one hundred eighty-five percent (185%) and at or below two hundred twenty-five percent (225%) of the federal poverty level for the household size are responsible for a five dollar ($5)-co-payment at the time of professional service.

(A) Providers may *[require]* **request** payment of the **mandatory** co-payment**(s)** prior to service delivery**.** *[and may deny]*

(B) *[s/***S**ervice**(s) may not be denied** for failure to *[make]* **pay the mandatory** co-payment**(s)**.

(C) No co-payments shall be required for well-baby and well-child care**,** including age-appropriate immunizations.

(D) The co-payment amount will be deducted from the Medicaid maximum allowable amount for fee-for-service claims reimbursed by the Division of Medical Services.

(E) When a mandatory co-payment is not paid, the provider of service will have the following options:

1. Forego the co-payment entirely;

2. Make arrangement for future payment with the parents; or

3. File a claim with the Division of Medical Services to report the non-payment of the mandatory co-payment and secure payment for the service from the Division of Medical Services.

(F) When the Division of Medical Services receives a claim from a Medicaid fee-for-service provider for non-payment of the mandatory co-payment, the division will send a notice to the parents—

1. Requesting information from the parents to determine if the mandatory co-payment was not made because there has been a change in the financial situation of the family;

2. Requesting that the parents reimburse the Division of Medical Services for the mandatory co-payment made on the children's behalf; and

3. Advising the parents of the possible loss of coverage for up to three (3) months if the parents fail to pay three (3) co-payments in one (1) year.

(G) The parents shall be allowed fourteen (14) calendar days to respond. If the recipient indicated there has been a change in the financial situation of the family, the state shall redetermine eligibility—

1. If the eligibility redetermination places the recipient in a non-mandatory co-payment category, there will be no co-payment due; or

2. If the eligibility redetermination does not place the recipient in a non-mandatory co-payment category, another notice will be sent to the recipient about the mandatory co-payment provision of the program.

(H) Notice of non-payment of mandatory co-payments sent to the parents shall establish a pattern of not meeting the mandatory co-payment requirements of the program. The process to terminate eligibility shall proceed with the third failure to pay in any one (1) year—

1. A year starts at the point a co-payment is reported not paid to the Division of Medical Services; and

2. Payment of a delinquent co-payment or co-payments shall eliminate the failure to pay a mandatory co-payment or co-payments.

(I) If the parents fail to pay the mandatory co-payments three (3) times within a year and the children are disenrolled from coverage the children shall not be eligible for coverage for three (3) months after the department provides notice to the parents of the disenrollment from the Children's Health Insurance Program for failure to pay mandatory co-payments or until one (1) or more of the three (3) delinquent mandatory co-payments is made. Coverage shall begin again only after payment of one (1) or more of the three (3) co-payments or passage of three (3) months time whichever occurs first. Coverage shall not be retroactive.

(16) The Department of Social Services, Division of Medical Services shall provide for granting an opportunity for a fair hearing to any applicant or recipient whose claim for benefits under the Children's Health Insurance Program is denied or when disenrollment from the Children's Health Insurance Program for failure to pay the mandatory co-payment has been determined by the Division of Medical Services. There are established positions of state hearing officer within the Department of Social Services, Division of Legal Services in order to comply with all pertinent federal and state law and regulations. The state hearing officers shall have authority to conduct state level hearings of an appeal nature and shall serve as direct representative of the director of the Division of Medical Services.

AUTHORITY: sections 208.631, 208.633, 208.636, 208.640, 208.643, 208,646, 208.650, 208.655, 208.657 and 208.660, RSMo Supp. 1998 ***and 208.080, 208.156*** *and 208.201, RSMo 1994. Original rule filed July 15, 1998, effective Feb. 28, 1999. Amended: Filed Aug. 16, 1999.*

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment. Written comments may be mailed or delivered to the Director, Division of Medical Services, 615 Howerton Court, P.O. Box 6500, Jefferson City, MO 65102-6500. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 4—Conditions of Recipient Participation, Rights and Responsibilities

PROPOSED AMENDMENT

13 CSR 70-4.080 Children's Health Insurance Program. The division is amending section (5).

PURPOSE: This amendment clarifies the administrative procedure for determining access to affordable health insurance required by section (5).

[(5) Parent(s) and guardian(s) of uninsured children with available income above two hundred twenty-five percent (225%) and below three hundred percent (300%) of the federal poverty level must certify, as a part of the application process, that the child does not have access to affordable employer-sponsored health insurance or other affordable health insurance available to the parent(s) or guardian(s) through their association with an identifiable group (for example, a trade association, union, professional organization) or through the purchase of individual health insurance coverage.

(A) Affordable access is calculated by comparing the health insurance monthly dependent premium to one hundred thirty-three percent (133%) of the monthly statewide weighted average child/children premium required by the Missouri Consolidated Health Care Plan. Adjustment to the monthly statewide weighted average, based on changes in the Missouri Consolidated Health Care Plan, shall be calculated yearly in March with an effective date of July 1 of the same calendar year.

(B) Health insurance premiums less than or equal to one hundred thirty-three percent (133%) of the monthly average dependent premium required by the Missouri Consolidated Health Care Plan are deemed affordable and shall result in ineligibility for the child/children.]

(5) Access to Employer-Sponsored Health Insurance. As part of the application process, parents of uninsured children with available income above two hundred twenty-five percent (225%) of the federal poverty level shall report if the parents have access to employer-sponsored health insurance or other health insurance.

(A) Affordability Test of Employer-Sponsored Health Insurance. If the parents have access to employer-sponsored health insurance, the affordability of health insurance coverage shall be determined by comparing the health insurance monthly premium for children to one hundred thirty-three percent (133%) of the monthly statewide weighted average premium for children required by the Missouri Consolidated Health Care Plan.

1. If the health insurance premium is at or below one hundred thirty-three percent (133%) of the monthly statewide weighted average for children, the health insurance is deemed affordable and the children are not eligible for the Children's Health Insurance Program.

(B) Lack of Access to Employer-Sponsored Health Insurance. If the parents do not have access to employer-sponsored health insurance or the premium for employer-sponsored health insurance is above one hundred thirty-three percent (133%) of the monthly statewide weighted average premium for children required by the Missouri Consolidated Health Care Plan, the parents shall provide two (2) price quotes received from health insurance carriers.

1. The children shall be eligible for the Children's Health Insurance Program if—

A. Pursuant to section 208.643.1, RSMo, the health insurance coverage does not include all medical services covered by section 208.152, RSMo, except non-emergency medical transportation;

B. The health insurance premium is above one hundred thirty-three percent (133%) of the monthly statewide weighted average premium for children required by the Missouri Consolidated Health Care Plan;

C. The deductible, co-insurance, and co-payments are more than the deductible, co-insurance, and co-payments ten dollars ($10) at the time of each professional visit and five dollars ($5) per prescription) as allowed by Missouri Medicaid; and

D. Medical services are not provided for pre-existing medical conditions.

(C) Adjustment to the monthly statewide weighted average premium for children, based on changes in the Missouri Consolidated Health Care Plan, shall be calculated each year as of March 1 with an effective date of July 1 of the same calendar year.

AUTHORITY: sections 208.631, 208.633, 208.636, 208.640, 208.643, 208,646, 208.650, 208.655, 208.657, and 208.660, RSMo Supp. 1998 and 208.201, RSMo 1994. Original rule filed July 15, 1998, effective Feb. 28, 1999. Amended: Filed Aug. 16, 1999. Amended: Filed Aug. 30, 1999.

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment. Written comments may be mailed or delivered to the Director, Division of Medical Services, 615 Howerton Court, Post Office Box 6500, Jefferson City, MO 65102-6500. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register.*** *No public hearing is scheduled.*

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 4—Conditions of Recipient Participation, Rights and Responsibilities

PROPOSED RULE

13 CSR 70-4.090 Uninsured Working Parents' Health Insurance Program

PURPOSE: This rule establishes the Uninsured Working Parents' Health Insurance Program. This program will provide payment for health care coverage for uninsured, low income, working parents leaving welfare for work thereby reducing future dependence on welfare and reducing the possibility of a family's future dependence on welfare as authorized pursuant to section 208.040, RSMo. The program is also authorized pursuant to the award of the Missouri State Medicaid Section 1115 Health Care Reform Demonstration Proposal approved by the Health Care Financing Administration.

(1) Definitions.

(A) Working parents. Working parents are defined as having earned income above two hundred thirty-four dollars ($234) per parent per month.

(B) Health insurance. Any hospital and medical expense incurred policy, nonprofit heath care service for benefits other than through an insurer, nonprofit health care service plan contract, health maintenance organization subscriber contract, preferred provider arrangement or contract, or any other similar contract or agreement for the provision of health care benefits. The term "health insurance" does not include short-term, accident, fixed indemnity, limited benefit or credit insurance coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, or insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

(C) Co-payment. A cost-sharing arrangement in which a covered person pays a specified charge for a specified service, such as ten dollars ($10) for a professional service.

(D) Parents. For purposes of this regulation, the term parents can refer to a custodial parent, custodial parents, non-custodial parent or the child's legal guardian or guardians.

(2) The following uninsured working parents' shall be eligible to receive medical services to the extent and in the manner provided in this regulation:

(A) Parents losing transitional medical assistance (TMA) who would not otherwise be insured or Medicaid eligible, with gross income below three hundred percent (300%) of the federal poverty level for the household size—

1. Eligibility for the Uninsured Working Parents' Health Insurance Program for parents losing TMA ends after twenty-four (24) total nonconsecutive months; and

2. After coverage ends, the parents have the option of staying in the MC+ health plan, where managed care is available, if the parents pay the cost of the state's cost for the time period covered by the Missouri Medicaid Section 1115 Health Care Reform Demonstration Proposal as approved by the Health Care Financing Administration;

(B) Uninsured non-custodial working parents with income below one hundred twenty-five percent (125%) of the federal poverty level for the household size who are current in paying their child support;

(C) Uninsured non-custodial parents who are actively participating in Missouri's Parents' Fair Share Program;

(D) Uninsured custodial working parents with family income below one hundred percent (100%) of the federal poverty level for the household size; and

(E) Uninsured mothers who do not qualify for other medical assistance benefits, and would lose their Medicaid eligibility sixty (60) days after the birth of their child, will continue to be eligible for family planning and limited testing of sexually transmitted diseases, regardless of income, for twenty-four (24) consecutive months after the pregnancy ends.

(3) Uninsured working parents who have had health insurance in the six (6) months prior to the month of application shall not be eligible.

(4) If the parents had health insurance and such health insurance coverage was dropped, within six (6) months prior to the month of application, the parent is not eligible for coverage under this rule until six (6) months after coverage was dropped.

(5) The six (6)-month period of ineligibility would not apply to parents who lose health insurance due to—

(A) Loss of employment due to factors other than voluntary termination;

(B) Employment with a new employer that does not provide an option for coverage;

(C) Expiration of the Consolidated Budget Reconciliation Act (COBRA) coverage period; or

(D) Lapse of health insurance when the lifetime maximum benefits under their private health insurance have been exhausted.

(6) Beneficiaries covered in section (2) of this rule shall be eligible for service(s) from the date their application is received. No service(s) will be covered prior to the date the application is received.

(7) The following services are covered for beneficiaries of the Uninsured Working Parents' Health Insurance Program if they are medically necessary:

(A) Inpatient hospital services;

(B) Outpatient hospital services;

(C) Emergency room services;

(D) Ambulatory surgical center, birthing center;

(E) Physician, advanced practice nurse, and certified nurse midwife services;

(F) Maternity benefits for inpatient hospital and certified nurse midwife. The health plan shall provide coverage for a minimum of forty-eight (48) hours of inpatient hospital services following a vaginal delivery and a minimum of ninety-six (96) hours of inpatient hospital services following a cesarean section for a mother and her newly born child in a hospital or any other health care facility licensed to provide obstetrical care under the provision of Chapter 197, RSMo. A shorter length of hospital stay for services related to maternity and newborn care may be authorized if a shorter inpatient hospital stay meets with the approval of the attending physician after consulting with the mother and is in keeping with federal and state law. The health plan is to provide coverage for post-discharge care to the mother and her newborn. The physician's approval to discharge shall be made in accordance with the most current version of the "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists, or similar guidelines prepared by another nationally recognized medical organization and be documented in the patient's medical record. The first post-discharge visit shall occur within twenty-four (24) to forty-eight (48) hours. Post-discharge care shall consist of a minimum of two (2) visits at least one (1) of which shall be in the home, in accordance with accepted maternal and neonatal physical assessments, by a registered professional nurse with experience in maternal and child health nursing or a physician. The location and schedule of the post-discharge visits shall be determined by the attending physician. Services provided by the registered professional nurse or physician shall include, but not be limited to, physician assessment of the newborn and mother, parent education, assistance and training in breast or bottle feeding, education and services for complete childhood immunizations, the performance of any necessary and appropriate clinical tests and submission of a metabolic specimen satisfactory to the state laboratory. Such services shall be in accordance with the medical criteria outlined in the most current version of the "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists, or similar guidelines prepared by another nationally recognized medical organization. If the health plan intends to use another nationally recognized medical organization's guidelines, the state agency must approve prior to implementation of its use;

(G) Family planning services;

(H) Pharmacy benefits;

(I) Dental services to treat trauma or disease;

(J) Laboratory, radiology and other diagnostic services;

(K) Prenatal case management;

(L) Hearing aids and related services;

(M) Eye exams and services to treat trauma or disease (one (1) pair of glasses after cataract surgery only);

(N) Home health services;

(O) Emergent (ground or air) transportation;

(P) Non-emergent transportation only for members in ME Code 78 Parent's Fair Share;

(Q) Mental health and substance abuse services, subject to limitation of thirty (30) inpatient days and twenty (20) outpatient visits. One (1) inpatient day may be traded for two (2) outpatient visits;

(R) Services of other providers when referred by the health plan's primary care provider;

(S) Hospice services;

(T) Durable medical equipment (including but not limited to: orthotic and prosthetic devices, respiratory equipment and oxygen, enteral and parenteral nutrition, wheelchairs and walkers, diabetes supplies and equipment);

(U) Diabetes self-management training for persons with gestational, Type I or Type II diabetes;

(V) Services provided by local health agencies (may be provided by the health plan or through an arrangement between the local health agency and the health plan)—

1. Screening, diagnosis, and treatment of sexually transmitted diseases;

2. HIV screening and diagnostic services; and

3. Screening, diagnosis, and treatment of tuberculosis; and

(W) Emergency Medical Services. Emergency medial services are defined as those health care items and services furnished or required to evaluate or stabilize a sudden and unforseen situation or occurrence or a sudden onset of a medical or mental health condition manifesting itself by acute symptoms of sufficient severity (including severe pain) that the failure to provide immediate medical attention could reasonably be expected by a prudent lay person, possessing average knowledge of health and medicine, to result in—

1. Placing the patient's health (or with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy; or

2. Serious impairment of bodily functions; or

3. Serious dysfunction of any bodily organ or part; or

4. Serious harm to a member or others due to an alcohol or drug abuse emergency; or

5. Injury to self or bodily harm to others; or

6. With respect to a pregnant woman who is having contractions—a) that there is inadequate time to effect a safe transfer to another hospital before delivery; or b) that transfer may pose a threat to the health or safety of the woman or the unborn child.

(8) Parents losing TMA, uninsured non-custodial working parent(s) with family income below one hundred twenty-five percent (125%) of the federal poverty level who are current in paying their child support and uninsured custodial working parent(s) with family income below one hundred percent (100%) of the federal poverty level shall owe a ten dollar ($10)-co-payment for certain professional services and a five dollar ($5)-co-payment in addition to the recipient portion of the professional dispensing fee for pharmacy services required by 13 CSR 70-4.051.

(A) Providers may request payment of the mandatory co-payment(s) prior to service delivery.

(B) The co-payment amount will be deducted from the Medicaid maximum allowable amount for fee-for-service claims reimbursed by the Division of Medical Services.

(C) Service(s) may not be denied for failure to pay the mandatory co-payment.

(D) When a mandatory co-payment is not paid, the Medicaid provider will have the following options:

1. Forego the co-payment entirely;

2. Make arrangements for future payment with the recipient; or

3. File a claim with the Division of Medical Services to report the non-payment of the mandatory co-payment and secure payment for the service from the Division of Medical Services.

(E) When the Division of Medical Services receives a claim from a Medicaid fee-for-service provider for non-payment of the mandatory co-payment, the division will send a notice to the recipient requesting—

1. That the recipient reimburse the Division of Medical Services for the mandatory copayment made on their behalf; or

2. An explanation from the recipient why the mandatory co-payment was not and cannot be made.

(F) The recipient will be allowed fourteen (14) calendar days to respond. If the recipient indicated there has been a change in the financial situation of the family, the state shall redetermine eligibility—

1. If the eligibility redetermination places the recipient in a non-mandatory co-payment category, there will be no co-payment due; or

2. If the eligibility redetermination does not place the recipient in a non-mandatory co-payment category another notice will be sent to the recipient about the mandatory co-payment provision of the program.

(G) Notice of nonpayment of mandatory co-payment(s) sent to the recipient during the course of a year shall establish a pattern of not meeting the mandatory cost sharing requirement of the program. The process to terminate eligibility shall proceed with the third failure to pay in any one (1) year—

1. A year starts at the point the individual becomes eligible; and

2. An individual who pays a delinquent co-payment or co-payments will be able to eliminate the failure to pay a mandatory co-payment or co-payments.

(H) Recipient(s) shall have access to a fair hearing process to appeal the disenrollment decision.

(I) If the recipient fails to pay the mandatory co-payments three (3) times within a year and is disenrolled from coverage the recipient shall not be eligible for coverage for three (3) months after the department provides notice to the recipient of disenrollment for failure to pay mandatory co-payments.

(9) Uninsured non-custodial parents who are actively participating in Missouri's Parents' Fair Share Program and uninsured mothers who do not qualify for other benefits, and would lose their Medicaid eligibility sixty (60) days after the birth of their child are not required to pay a co-pay for services.

(10) The Department of Social Services, Division of Medical Services shall provide for granting an opportunity for a fair hearing to any applicant or recipient whose claim for benefits under the Missouri Medicaid Section 1115 Health Care Reform Demonstration Proposal is denied or disenrollment for failure to pay mandatory co-payments has been determined by the division.

AUTHORITY: sections 208.040 and 208.201, RSMo 1994 and 660.017, RSMo Supp. 1998. Original rule filed Aug. 16, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more that $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule. Written comments may be mailed or delivered to the Director, Division of Medical Services, 615 Howerton Court, P.O. Box 6500, Jefferson City, MO 65102-6500. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 10—Nursing Home Program

PROPOSED AMENDMENT

13 CSR 70-10.015 Prospective Reimbursement Plan for Nursing Facility Services. The division is amending section (13).

PURPOSE: This amendment outlines how the Fiscal Year 2000 trend factor will be applied to adjust per-diem rates for nursing facilities participating in the Medicaid program.

(13) Adjustments to the Reimbursement Rates. Subject to the limitations prescribed elsewhere in this regulation, a facility's reimbursement rate may be adjusted as described in this section.

(A) Global Per-Diem Rate Adjustments. A facility with either an interim rate or a prospective rate may qualify for the global per-diem rate adjustments. Global per-diem rate adjustments shall be added to the specified cost component ceiling.

PUBLISHER'S NOTE: Paragraphs (13)(A)1.–7. remain as published in the ***Code of State Regulations****.*

8. FY-2000 negotiated trend factor—

A. Facilities with either an interim rate or prospective rate in effect on July 1, 1999, shall be granted an increase to their per diem effective July 1, 1999, of 1.94% of the cost determined in subsections (11)(A), (11)(B), (11)(C), the property insurance and property taxes detailed in paragraph (11)(D)3. and the minimum wage adjustments detailed in paragraphs (13)(A)4. and (13)(A)5. of this regulation; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. that is in effect on July 1, 1999, shall have their increase determined by subsection (3)(S) of this regulation.

AUTHORITY: sections 208.153, 208.159, and 208.201, RSMo 1994. Emergency rule filed Dec. 21, 1994, effective Jan. 1, 1995, expired April 30, 1995. Emergency rule filed April 21, 1995, effective May 1, 1995, expired Aug. 28, 1995. Original rule filed Dec. 15, 1994, effective July 30, 1995. For intervening history, please consult the ***Code of State Regulations****. Amended: Filed Aug. 30, 1999.*

PUBLIC ENTITY COST: This proposed amendment will cost state agencies or political subdivisions approximately $13,718,094 annually. A fiscal note containing detailed estimated cost has been filed with the secretary of state.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Division of Medical Services, Director of Medicaid, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication in the ***Missouri Register****. If to be hand-delivered, comments must be brought to the Division of Medical Services at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.*

FISCAL NOTE
PUBLIC ENTITY COSTS

I. RULE NUMBER

Title : 13 - Department of Social Services
Division : 70 - Division of Medical Services
Chapter : 10 - Nursing Home Program
Type of Rulemaking : Proposed Amendment
Rule Number and Name : 13 CSR 70-10.015 Prospective Reimbursement Plan for Nursing Facility Services

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Social Services	Annual estimated cost $13,718,094

III. WORKSHEET

Estimated annual Medicaid days 9,755,357; Average rate increase rounded to two decimals $1.41; and Estimated annual cost $13,718,094.

IV. ASSUMPTIONS

The annual impact of the 1.94% trend granted by the legislature is $13,718,094. The annual impact is based on the estimated Medicaid days for each nursing facility multiplied by its facility's specific rate increase. The average rate increase is $1.41. The number of estimated annual Medicaid days is 9,755,357.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 10—Nursing Home Program

PROPOSED AMENDMENT

13 CSR 70-10.080 Prospective Reimbursement Plan for HIV Nursing Facility Services. The division is amending section (13).

PURPOSE: This amendment outlines how the State Fiscal Year 2000 trend factor will be applied to adjust per-diem rates for HIV nursing facilities participating in the Medicaid program.

(13) Adjustments to the Reimbursement Rates. Subject to the limitations prescribed elsewhere in this regulation, a facility's reimbursement rate may be adjusted as described in this section.

(A) Global Per-Diem Rate Adjustments. A facility with either an interim rate or a prospective rate may qualify for the global per-diem rate adjustments. Global per-diem rate adjustments shall be added to the specified cost component ceiling.

PUBLISHER'S NOTE: Paragraphs (13)(A)1.–3. remain as published in the ***Code of State Regulations***.

4. FY-2000 negotiated trend factor.

A. Facilities with either an interim rate or prospective rate in effect on July 1, 1999, shall be granted an increase to their per diem effective July 1, 1999, of 1.94% of the cost determined in subsections (11)(A), (11)(B), (11)(C), the property insurance and property taxes detailed in paragraph (11)(D)3. and the minimum wage adjustment detailed in paragraph (13)(A)1. of this regulation; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. that is in effect on July 1, 1999, shall have their increase determined by subsection (3)(S) of this regulation.

AUTHORITY: sections ***197.319 and*** *208.153, RSMo 1994. Original rule filed Aug. 1, 1995, effective March 30, 1996. For intervening history, please consult the* ***Code of State Regulations***. *Amended: Filed Aug. 30, 1999.*

PUBLIC ENTITY COST: This proposed amendment will cost state agencies or political subdivisions approximately $23,948 annually. A fiscal note containing detailed estimated cost has been filed with the secretary of state.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Division of Medical Services, Director of Medicaid, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication in the ***Missouri Register***. *If to be hand-delivered, comments must be brought to the Division of Medical Services at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.*

FISCAL NOTE
PUBLIC ENTITY COSTS

I. RULE NUMBER

Title : 13 - Department of Social Services
Division : 70 - Division of Medical Services
Chapter : 10 - Nursing Home Program
Type of Rulemaking : Proposed Amendment
Rule Number and Name : 13 CSR 70-10.080 Prospective Reimbursement Plan for HIV Nursing Facility Services

II. SUMMARY OF FISCAL IMPACT

Affected Public Entities	Estimated Cost of Compliance in the Aggregate
Department of Social Services	Annual estimated cost $23,948

III. WORKSHEET

Estimated annual Medicaid days	5,418
Average rate increase	x $4.42
Estimated annual cost	$23,948

IV. ASSUMPTIONS

The annual cost of the 1.94% trend granted by the legislature is $23,948, based upon estimated annual Medicaid days of 5,418 multiplied by the average rate increase of $4.42.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 10—Nursing Home Program

PROPOSED AMENDMENT

13 CSR 70-10.110 Nursing Facility Reimbursement Allowance. The division is amending sections (1) and (2).

PURPOSE: This amendment provides for the Nursing Facility Reimbursement Allowance to be raised to $7.04, effective October 1, 1999.

(1) Nursing Facility Reimbursement Allowance (NFRA). NFRA shall be assessed as described in this section.

(B) Each nursing facility, except any nursing facility operated by the Department of Mental Health, engaging in the business of providing nursing facility services in Missouri shall pay a Nursing Facility Reimbursement Allowance (NFRA). The NFRA **rates** shall be calculated by the department *[on an annual basis, as detailed below, and is effective from October 1 through September 30, except for the initial NFRA implemented January 1, 1995, effective January 1, 1995 through September 30, 1995. The NFRA rates for each year]* **and** are included in section (2) NFRA rates.

(2) NFRA Rates. The NFRA rates determined by the division, as set forth in (1)(B) above, are as follows:

(D) The NFRA will be five dollars and eighty-eight cents ($5.88) per patient occupancy day for the period October 1, 1997, through September 30, 1998, and collected over twelve (12) months (November 1997 through October 1998); *[and]*

(E) The NFRA will be five dollars *[dollars]* and eighty-eight cents ($5.88) per patient occupancy day for the period October 1, 1998 through September 30, 1999, and collected over twelve (12) months (November 1998 through October 1999)*[.]***; and**

(F) The NFRA will be seven dollars and four cents ($7.04) per patient occupancy day, effective October 1, 1999.

*AUTHORITY: sections 198.401, 198.403, 198.406, 198.409, 198.412, 198.416, 198.418, 198.421, 198.424, 198.427, 198.431, 198.433 and 198.436 RSMo [Supp. 1997] **Supp. 1998** and 208.201, RSMo 1994. Emergency rule filed Dec. 21, 1994, effective Jan. 1, 1995, expired April 30, 1995. Emergency rule filed April 21, 1995, effective May 1, 1995, expired Aug. 28, 1995. Original rule filed Dec. 15, 1994, effective July 30, 1995. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Aug. 30, 1999.*

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will cost private entities approximately $113,902,321 annually and $85,426,741 for SFY 2000. A fiscal note containing detailed estimated cost of compliance has been filed with the secretary of state.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Division of Medical Services, Director of Medicaid, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication in the **Missouri Register**. If to be hand-delivered, comments must be brought to the Division of Medical Services at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.*

FISCAL NOTE
PRIVATE ENTITY COSTS

I. RULE NUMBER

Title : 13 - Department of Social Services
Division : 70 - Division of Medical Services
Chapter : 10 - Nursing Home Program
Type of Rulemaking : Proposed Amendment
Rule Number and Name : 13 CSR 70-10.110 Nursing Facility Reimbursement Allowance

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
576	Long term care facilities	Annual estimated cost: $113,902,321

III. WORKSHEET

Annual days to be assessed	16,179,307
NFRA	x $7.04
Annual estimated cost	$113,902,321

IV. ASSUMPTIONS

The annual impact of $113,902,321 is based on State Fiscal Year 2000 assessed amount of $7.04 per day multiplied by the estimated annualized occupied days of 16,260,112 for the second quarter of 1999.

The estimated cost for SFY2000 is $85,426,741, determined by prorating the annual cost over 9 months (October, 1999 through June, 2000).

The annual impact is based on 576 facilities which include some costs to small businesses.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 15—Hospital Program

PROPOSED AMENDMENT

13 CSR 70-15.010 Inpatient Hospital Services Reimbursement Plan; Outpatient Hospital Services Reimbursement Methodology. The division is amending sections (3) and (18).

PURPOSE: The proposed amendment of sections (3) and (18) provides for the trending of hospitals' per-diem rates, the trend factor for State Fiscal Year (SFY) 2000 and adjusts the uninsured add-on for SFY 2000.

(3) Per-Diem Reimbursement Rate Computation. Each hospital shall receive a Medicaid per-diem rate based on the following computation.

(B) Trend *[i]***I**ndices (TI). Trend indices are determined based on the four (4)-quarter average DRI Index for DRI-Type Hospital Market Basket as published in *Health Care Costs* by DRI/McGraw-Hill for each State Fiscal Year (SFY) 1995 to 1998. Trend indices starting in SFY 99 will be determined based on CPI Hospital indexed as published in ***Health Care Costs*** by DRI/McGraw-Hill for each State Fiscal Year (SFY).

1. The TI are—

A. SFY 1994—4.6%

B. SFY 1995—4.45%

C. SFY 1996—4.575%

D. SFY 1997—4.05%

E. SFY 1998—3.1%

F. SFY 1999—3.8%*[.]*

G. SFY 2000—4.0%.

2. The TI for SFY 1996 through SFY 1998 are applied as a full percentage to the OC of the per-diem rate and for SFY *[99]* **1999** the OC *[on]* **of** the June 30, 1998 rate shall be trended by 1.2% **and for SFY 2000 the OC of the June 30, 1999 rate shall be trended by 2.4%**.

(18) In accordance with state and federal laws regarding reimbursement of unreimbursed costs and the costs of services provided to uninsured patients, reimbursement for each State Fiscal Year (SFY) (July 1–June 30) shall be determined as follows:

(A) Medicaid Add-Ons for Shortfall. The Medicaid Add-On for the period of July 1, 1998 to December 31, 1998 will be based on fifty percent (50%) of the unreimbursed Medcaid costs as calculated for SFY 98 (Medicaid Shortfall)*[.]***; and**

(B) Uninsured Add-Ons. The hospital shall receive *[ninety-nine percent (99%)]* **eighty-one percent (81%)** of the Uninsured costs prorated over **the** SFY *[1999]*. Hospitals which contribute through a plan approved by the director of health to support the state's poison control center and the Primary Care Resource Initiative for Missouri (PRIMO) shall receive *[one hundred percent (100%)]* **eighty-two percent (82%)** of its uninsured costs prorated over **the** SFY *[1999]*. The uninsured Add-On will include:

1. The Add-On payment for the cost of the Uninsured. This is determined by multiplying the charges for charity care and allowable bad debts by the hospital's total cost-to-charge ratio for allowable hospital services from the base year cost report's desk review. The cost of the Uninsured is then trended to the current year using the trend indices reported in subsection (3)(B) *[and the growth factors listed in subsection (18)(C)]*. Allowable bad debts do not include the costs of caring for patients whose insurance covers the particular service, procedure or treatment;

2. An adjustment to recognize the Uninsured patients share of the FRA assessment not included in the desk-reviewed cost. The FRA assessment for Uninsured patients is determined by multiplying the current FRA assessment by the ratio of uninsured days to total inpatient days from the base year cost report;

3. The difference in the projected General Relief per-diem payments and trended costs for General Relief patient days; *[and]*

4. The increased costs per day resulting from the utilization adjustment in subsection (15)(B) is multiplied by the estimated uninsured days*[.]***; and**

5. In order to maintain compliance with the Balanced Budget Act (BBA) DSH cap and the budget neutrality provisions contained in Missouri's Medicaid Section 1115 Health Care Reform Demonstration Proposal, the Uninsured Add-On for SFY 2000 has been established at eighty-two percent (82%) of the cost of the uninsured as computed in accordance with this subsection. One factor in determination of the payment percentage is an estimate that fifty-four (54) million dollars shall be paid from July 1, 1999 through April 30, 2000 related to previously uninsured working parents covered under the Medicaid Section 1115 Health Care Reform Demonstration Proposal. The SFY 2000 payment percentage shall be increased by an additional one percent (1%) for every three and one-half (3.5) million dollar increment not paid for working parents covered under the Medicaid Section 1115 Health Care Reform Demonstration Proposal as of April 30, 2000. For example, if total spending on the Medicaid Section 1115 Health Care Reform Demonstration Proposal working parent population is forty-seven (47) million dollars, as of April 30, 2000, the Uninsured Add-On percentage for SFY 2000 shall be increased by two percent (2%).

[(C) The Growth Factors. The growth factors applied to the uninsured costs for each SFY are:

1. SFY 1996–3.4%;

2. SFY 1997–3.4%;

3. SFY 1998–3.3%; and

4. SFY 1999–3.3%.]

AUTHORITY: sections 208.152, 208.153, 208.159, 208.201 and 208.471, RSMo 1994. This rule was previously filed as 13 CSR 40-81.050. Original rule filed Feb. 13, 1969, effective Feb. 23, 1969. For intervening history, please consult the ***Code of State Regulations****. Amended: Filed May 14, 1999. Emergency amendment filed June 18, 1999, effective June 28, 1999, expires Dec. 24, 1999. Amended: Filed July 1, 1999. Amended: Filed Aug. 16, 1999.*

PUBLIC ENTITY COST: This proposed amendment is expected to cost state agencies or political subdivisions $304,607,217 in state fiscal year 2000. A fiscal note containing detailed estimated cost of compliance has been filed with the secretary of state.

PRIVATE ENTITY COST: This proposed amendment will reduce payments that would have been paid to private entities by $82,847,524.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Division of Medical Services, Director of Medicaid, 615 Howerton Court, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

FISCAL NOTE
PUBLIC ENTITY COST

I. RULE NUMBER

Title: 13 – Department of Social Services

Division: 70 – Division of Medical Services

Chapter: 15 – Hospital Program

Type of Rulemaking: Proposed Amendment

Rule Number and Name: 13 CSR 70-15.010 Inpatient Hospital Services Reimbursement Plan
Outpatient Hospital Services Reimbursement Methodology

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Social Services	Annual Estimated Cost: $304,607,217

III. WORKSHEET

The estimated annual impact is based on the Direct Medicaid payments using the 1996 cost report as a base year for SFY 2000, paying 82% of the hospital's projected costs of the uninsured for SFY 2000 and adding a 2.4% trend factor to the hospital's operating component of the per diem rate.

IV. ASSUMPTIONS

The hospital's uninsured costs will exceed the disproportionate share limit for FFY 2000, which will result in not adding any growth factors to the hospital uninsured cost from the 1996 cost reports and paying only 82% of the uninsured costs in SFY 2000, resulting in a reduction in disproportionate share payments of $82,847,524.

FISCAL NOTE
PRIVATE ENTITY COST

I. RULE NUMBER

Title: 13 Department of Social Services

Division: 70 Division of Medical Services

Chapter: 15 - Hospital Program

Type of Rulemaking: Proposed Amendment

Rule Number and Name: 13 CSR 70-15.010 Inpatient Hospital Services Reimbursement Plan, Outpatient Hospital Services Reimbursement Methodology

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
145	Hospitals	82,847,524

III. WORKSHEET

The estimated annual impact is based on reducing the percent of uninsured payments made to hospitals to 82% of their uninsured costs.

IV. ASSUMPTIONS

The assumptions are that to stay within the disproportionate share limit required by Federal law, we must reduce our uninsured payments to 82%.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 15—Hospital Program

PROPOSED AMENDMENT

13 CSR 70-15.110 Federal Reimbursement Allowance (FRA). The division is adding section (7).

PURPOSE: The proposed amendment adds section (7). This section will establish the Federal Reimbursement Allowance (FRA) Assessment for SFY 2000.

(7) Federal Reimbursement Allowance (FRA) for State Fiscal Year 2000. The FRA assessment for State Fiscal Year 2000 shall be determined at the rate of five and thirty hundredths percent (5.30%) of the hospital's net operating revenues and other operating revenues defined in paragraphs (1)(A)12., and 13., as determined from information reported in the hospital's 1996 base year cost report.

AUTHORITY: sections 208.201 and 208.453, RSMo 1994 and 208.455, RSMo Supp. 1998. Emergency rule filed Sept. 21, 1992, effective Oct. 1, 1992, expired Jan. 28, 1993. Emergency rule filed Jan. 15, 1993, effective Jan. 25, 1993, expired May 24, 1993. Original rule filed Sept. 21, 1992, effective June 7, 1993. For the intervening history, please consult the ***Code of State Regulations****. Amended: Filed Aug. 16, 1999.*

PUBLIC ENTITY COST: This proposed amendment will not cost any state agencies or political subdivisions more than $500 in the aggregate for SFY 2000.

PRIVATE ENTITY COST: This proposed amendment will cost 136 hospitals $374,000,697. The estimated cost is based on an FRA assessment rate of 5.3% on net patient revenue and other operating revenue of $7.1 billion for SFY 2000.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of the Director, Division of Medical Services, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

FISCAL NOTE
PRIVATE ENTITY COST

I. RULE NUMBER

Title: Department of Social Services

Division: Division of Medical Services

Chapter: 15 Hospital Program

Type of Rulemaking: Proposed Amendment

Rule Number and Name: 13 CSR 70-15.110 - Federal Reimbursement Allowance (FRA)

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
136	Hospitals	$374,000,697

III. WORKSHEET

The estimated impact of this amendment is based on the FRA assessment percentage for SFY 2000 being set at 5.3%. The 136 Hospitals reported above include 39 hospitals that are owned, operated or controlled by state, county, city or hospital districts. The impact on these facilities is $40,613,611.

IV. ASSUMPTIONS

The SFY 2000 FRA assessment is based on net patient revenue and other operating revenue of $7.1 billion multiplied by 5.3%.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 4—Postcard Voter Application and Forms

PROPOSED AMENDMENT

15 CSR 30-4.010 Postcard Voter Application and Forms. The secretary of state proposes to amend section (2) of the rule and update the form following the rule.

PURPOSE: This amendment implements changes to the law enacted in House Bill No. 676 of the 90th General Assembly, First Regular Session, 1999.

(2) Postcard Application Form Format and Content—

(D) The format and questions shall be printed in black ink, except that numbers 1–10 and the statement, "YOUR APPLICATION WILL BE CONFIRMED BY MAIL WITHIN *[TEN (10)]* **SEVEN (7)** BUSINESS DAYS. PLEASE CONTACT THE ELECTION AUTHORITY IF YOU DO NOT RECEIVE NOTIFICATION," shall be printed in red ink.

(5) The postcard voter application form **which is incorporated herein by reference** shall be reproduced in the following form:

MISSOURI VOTER REGISTRATION APPLICATION

USE PEN - PLEASE PRINT CLEARLY PC

YOUR APPLICATION WILL BE CONFIRMED BY MAIL WITHIN 7 BUSINESS DAYS. CONTACT THE ELECTION AUTHORITY IF YOU DO NOT RECEIVE NOTIFICATION.

1	☐ NEW REGISTRATION ☐ ADDRESS CHANGE ☐ NAME CHANGE			FOR OFFICE USE ONLY REGISTRATION NO.	
2	Mr. Mrs. Miss Ms. LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX (CIRCLE) JR. SR. II III IV	
3	ADDRESS WHERE YOU LIVE (HOUSE NO., STREET, APT. NO. OR RURAL ROUTE AND BOX NO.)		CITY	COUNTY	ZIP CODE
4	ADDRESS WHERE YOU GET YOUR MAIL (IF DIFFERENT FROM #3 ABOVE)		CITY	STATE	ZIP CODE
5	DATE OF BIRTH MO. DAY YR.	PLACE OF BIRTH (OPTIONAL)*	6 LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER**	7 DAYTIME PHONE NO. (OPTIONAL)*	

8 NAME AND ADDRESS ON LAST VOTER REGISTRATION

NAME _____

ADDRESS _____

CITY _____ STATE _____

COUNTY _____

9 RURAL VOTERS: COMPLETE THIS SECTION IF YOU LIVE OUTSIDE THE CITY LIMITS OF ANY CITY.

I live _____ miles N S E W (circle one) of _____ (landmark or junction).

Section,Township and range _____.

My neighbors are _____.

10 I hereby certify that I am a citizen of the United States and a resident of Missouri. I am at least seventeen and one half years of age. I have not been adjudged incapacitated by any court of law. If I have been convicted of a felony or a misdemeanor connected with the right of suffrage, I have had the voting disabilities from such conviction removed pursuant to law. I swear under penalty of perjury that all statements made on this card are true to the best of my knowledge and belief.

_____ _____

Date Signature

Warning: Conviction for making a false statement may result in imprisonment for up to five years and/or a fine up to $10,000.

MO 231-0169 (8-99)

*Information designated as optional is disclosed at the option of the registrant and will be used only by authorized officials to combat voter fraud and facilitate orderly elections.

**Required for registration unless no Social Security number exists for applicant.

_____

_____

_____

PLACE FIRST CLASS STAMP HERE

MISSOURI VOTER REGISTRATION

_____

_____

_____ **MO** _____

AUTHORITY: sections ***115.155****[.3.].5 and 115.159, RSMo [Supp. 1993]* ***Supp. 1998****. Emergency rule filed Nov. 10, 1993, effective Nov. 20, 1993, expired March 19, 1994. Emergency rule filed Feb. 23, 1994, effective March 20, 1994, expired May 8, 1994. Original rule filed Nov. 10, 1993, effective May 9, 1994. Amended: Filed Aug. 27, 1999.*

PUBLIC ENTITY COST: This proposed amendment is expected to cost state agencies or political subdivisions $8,000 in FY 2000 and approximately $3,803.54 per year over the life of the rule.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Secretary of State, 600 West Main Street, P.O. Box 1767, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

FISCAL NOTE
PUBLIC ENTITY COST

I. RULE NUMBER

Title: 15--ELECTED OFFICIALS

Division: 30--Secretary of State

Chapter: 4--Postcard Voter Application and Forms

Type of Rulemaking: AMENDMENT

Rule Number and Name: 15 CSR 30-4.010 Postcard Voter Application and Forms

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Office of the Secretary of State	Approx. $8000, plus $3803.54 per year for each year thereafter over the life of the rule.

III. WORKSHEET

Estimated cost for printing, including replacement of existing stock, in compliance with this amendment (FY 2000):	$8000.00
Estimated continuing annual cost based on actual cost for the years ended June 30, 1997, 1998, 1999:	$3803.54

IV. ASSUMPTIONS

FY 2000 estimate based on information provided by the State Printing Office. Continuing cost is based on the median actual cost for the three most recent fiscal years (97: $4024.24, 98: $3054.63, 99: $3803.54), and does not attempt to predict potential increases due to increases in the cost of raw materials, labor, etc., nor does it reflect potential savings due to decreases in those costs or advancements in printing technology.

It is not possible to determine how long this rule will remain in effect. Costs are annualized.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 15—Initiative, Referendum, New Party and Independent Candidate Petition Rules

PROPOSED AMENDMENT

15 CSR 30-15.010 Signature Verification Procedures for Initiative, Referendum, New Party and Independent Petitions. The secretary of state is amending sections (1) and (6).

PURPOSE: This amendment implements changes to the law enacted in House Bill No. 676 of the 90th General Assembly, First Regular Session, 1999.

(1) Voter signatures will be rejected if—

(A) *[t]***They list an address outside of the county as indicated on the petition***[.]***; or**

(B) They have been struck through or crossed out.

(6) A voter's signature shall not be deemed invalid on the basis of source of registration. If otherwise valid, the signature of a person who registered to vote pursuant to the provisions of sections 115.159, 115.160 or 115.162, RSMo shall be accepted as valid without respect to whether such person has previously voted in the jurisdiction or received a voter identification card, provided that each of the following must apply at the time of verification of the petition by the local election authority:

(B) The verification notice sent by the election authority pursuant to section *[115.159.3]* **115.155.3**, RSMo 1994, was not returned by the postal service to the election authority within *[fourteen (14) days from the date it was sent]* **the time established by the election authority**; and

*AUTHORITY: sections 115.335.7, **RSMo Supp. 1998** and 116.130.[4]5, RSMo [Supp. 1995] **Supp. 1999**. Original rule filed Nov. 22, 1985, effective March 24, 1986. Amended: Filed April 22, 1992, effective Sept. 6, 1992. Emergency amendment filed June 10, 1992, effective June 20, 1992, expired Oct. 17, 1992. Emergency amendment filed July 9, 1996, effective July 19, 1996, expired Jan. 14, 1997. Amended: Filed July 9, 1996, effective Feb. 28, 1997. Amended: Filed Aug. 27, 1999.*

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Secretary of State, 600 West Main Street, P.O. Box 1767, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 15—Initiative, Referendum, New Party and Independent Candidate Petition Rules

PROPOSED AMENDMENT

15 CSR 30-15.020 Processing Procedures for Initiative, Referendum, New Party and Independent Candidate Petitions. The secretary of state is deleting from the *Code of State Regulations* the form following this rule.

*PURPOSE: This amendment removes the form following the rule from the **Code of State Regulations**.*

*AUTHORITY: sections 115.335.7, **RSMo Supp. 1998** and 116.130[.4]**.5**, RSMo [Supp. 1995] **Supp. 1999**. Original rule filed Nov. 22, 1985, effective March 24, 1986. Amended: Filed April 22, 1992, effective Sept. 6, 1992. Emergency amendment filed June 10, 1992, effective June 20, 1992, expired Oct. 17, 1992. Emergency amendment filed July 12, 1996, effective July 22, 1996, expired Jan. 14, 1997. Amended: Filed July 12, 1996, effective Feb. 28, 1997. Amended: Filed Aug. 27, 1999.*

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Secretary of State, 600 West Main Street, P.O. Box 1767, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 15—ELECTED OFFICIALS
Division 50—Treasurer
Chapter 4—Missouri Higher Education Savings Program

PROPOSED RULE

15 CSR 50-4.010 General Organization

PURPOSE: This regulation provides the public with a description of the Missouri Higher Education Savings Program Board's operations and the methods and procedures where the public may obtain information. This rule is adopted to fulfill the statutory requirement of section 536.023(3), RSMo.

(1) House Bill No. 1694, 2nd Regular Session, 89th General Assembly (1998) as amended by Senate Bill No. 460, 1st Regular Session, 90th General Assembly (1999) (effective August 28, 1999), codified at sections 166.400 through 166.455 (the statute) creates the Missouri Higher Education Savings Program (the program), to be administered by the Missouri Higher Education Savings Program Board (the board). The board consists of the state treasurer (who serves as chairman), the commissioner of the state Department of Higher Education, the commissioner of the state Office of Administration, the director of the state Department of Economic Development, and two (2) persons having demonstrable experience and knowledge in the areas of finance and investment and management of public funds, one of whom will be selected by the president pro tem of the state Senate and the other selected by the speaker of the state House of Representatives. The board's primary purpose is to administer the program and the board possesses all powers necessary to carry out and effectuate the purposes, objectives and provisions of the statute.

(2) The program is designed to promote access to higher education by providing individuals with a convenient method to fund the increasingly expensive cost of post-secondary education. By allowing participants to make current contributions for designated beneficiaries and by investing these contributions with the goal of achieving a rate of return that reflects increases in educational costs, the program is intended to provide designated beneficiaries with funds needed for the costs of their post-secondary school edu-

cation. Within limits set by state and federal law, contributions to a savings account pursuant to the program are deductible from the contributor's state income tax, and income earned or received from the program by a contributor or beneficiary are not subject to state income tax.

(3) Pursuant to the statute, the board has selected and approved a program manager to administer the program. The program manager manages the day-to-day operation of the program.

(4) The public may obtain information or make submissions or requests to the State Treasurer's Office, P.O. Box 210, Jefferson City, MO 65102, (573-751-2411).

AUTHORITY: sections 166.416 and 536.023, RSMo Supp. 1998. Original rule filed Aug. 30, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Chairman of the Missouri Higher Education Savings Board, Bob Holden, State Treasurer, P.O. Box 210, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 15—ELECTED OFFICIALS
Division 50—Treasurer
Chapter 4—Missouri Higher Education Savings Program

PROPOSED RULE

15 CSR 50-4.020 Missouri Higher Education Savings Board

PURPOSE: This rule establishes procedures for the operation of the Missouri Higher Education Savings Program (the savings program), specifies responsibilities of the Missouri Higher Education Savings Program Board (the board) in administering and monitoring the savings program, describes the rights and responsibilities of the board and its staff, participants, beneficiaries and any third party designated by the board to carry out services under the savings program, and is intended to ensure that the savings program conforms with the federal and state statutes and regulations governing qualified state tuition programs.

PUBLISHER'S NOTE: The publication of the full text of the material that the adopting agency has incorporated by reference in this rule would be unduly cumbersome or expensive. Therefore, the full text of that material will be made available to any interested person at both the Office of the Secretary of State and the office of the adopting agency, pursuant to section 536.031.4, RSMo. Such material will be provided at the cost established by state law.

(1) Incorporation by Reference. The provisions of section 529 of the *Internal Revenue Code* and the Treasury regulations (or proposed regulations) promulgated thereunder are incorporated herein by reference with the same effect as if fully set forth herein.

(2) Definitions.

(A) Existing Missouri Definitions. The following terms, as used in this rule, are defined in section 166.410, RSMo: benefits, board, eligible educational institution, *Internal Revenue Code*, participation agreement, qualified higher education expenses, savings program.

(B) Existing Federal Definitions. The following terms, as used in this rule, are defined in section 529 of the *Internal Revenue Code* or the Treasury regulations (or proposed regulations) promulgated thereunder: contribution, distributee, distribution, earnings, investment in the account, member of the family, qualified state tuition program.

(C) Additional Definitions. The following definitions shall also apply to the following terms as they are used in this rule:

1. "501(c)(3) organization" means an organization described in section 501(c)(3) of the *Internal Revenue Code* and exempt from taxation under section 501(a) of the *Internal Revenue Code*;

2. "Account" means the account in the savings program established by a participant and maintained for a beneficiary;

3. "Account balance" means the fair market value of an account on a particular date;

4. "Account owner" means—a) a participant or b) the transferee of an account pursuant to subsection (5)(H) below;

5. "Beneficiary" means a designated beneficiary as defined in section 529 of the *Internal Revenue Code* and the Treasury regulations (or proposed regulations) promulgated thereunder;

6. "Cash" shall include but not be limited to checks drawn on a banking institution located in the continental United States in U.S. dollars (other than cashiers checks, travelers checks or third-party checks exceeding ten thousand dollars ($10,000)), money orders, payroll deduction, and electronic funds transfers. Cash does not include property;

7. "Disability" means, with respect to a beneficiary, any disability of such beneficiary that has been certified pursuant to subparagraph (6)(B)2. below;

8. "Member of the family" means an individual who is related to the beneficiary as listed in subparagraphs (2)(C)8.A. through (2)(C)8.I. of this definition, together with such changes to such list as may be included, from time-to-time, in the definition of "member of the family" pursuant to section 529 of the *Internal Revenue Code* or the Treasury regulations (or proposed regulations) thereunder:

A. A son or daughter, or a descendant of either;

B. A stepson or stepdaughter;

C. A brother, sister, stepbrother or stepsister;

D. The father or mother, or an ancestor of either;

E. A stepfather or stepmother;

F. A son or daughter of a brother or sister;

G. A brother or sister of the father or mother;

H. A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law or sister-in-law; or

I. The spouse of the designated beneficiary or the spouse of any individual described in subparagraphs (2)(C)8.A. through (2)(C)8.H. of this definition.

For purposes of determining who is a member of the family hereunder, a legally adopted child of an individual shall be treated as the child of such individual by blood, and the terms brother and sister include a brother or sister by the halfblood;

9. "Non-qualified withdrawal" means a distribution from an account other than a qualified withdrawal, a withdrawal due to death, disability or scholarship of beneficiary, a rollover distribution, or a distribution from an account that is made after amounts are held in such account for the minimum length of time, if at all, permitted by section 529 of the *Internal Revenue Code* without the imposition of a penalty;

10. "Participant" means a person who has entered into a participation agreement pursuant to the statute and this rule for the payment of qualified higher education expenses on behalf of a beneficiary;

11. "Person" means any individual, estate, association, trust, partnership, limited liability company, corporation, the state of

Missouri or any department thereof, or any political subdivision of the state of Missouri;

12. "Qualified withdrawal" means a distribution from an account established under the savings program used exclusively to pay qualified higher education expenses of the beneficiary;

13. "Rollover distribution" means a distribution or transfer from an account for a beneficiary that is transferred or deposited within sixty (60) days of the distribution into an account for another beneficiary who is a member of the family of the current beneficiary, in each case to the extent permitted as a rollover distribution, as defined in section 529(c)(3)(C)(i) of the *Internal Revenue Code* and the Treasury regulations (or proposed regulations) promulgated thereunder. A distribution is not a rollover distribution unless there is a change of beneficiary. The account for such other beneficiary may be an account established under the savings program or an account established under a qualified state tuition program in another state;

14. "Scholarship" means any scholarship and any allowance or payment described in section 135(d)(1)(B) or (C) of the *Internal Revenue Code*;

15. "Scholarship account" means an account in the savings program established by a participant that is a scholarship sponsor and maintained for the benefit of one (1) or more current and/or future beneficiaries;

16. "Scholarship sponsor" means the state of Missouri, an instrumentality of the state of Missouri, a political subdivision of the state of Missouri, or an organization described in section 501(c)(3) of the *Internal Revenue Code*, in each case who establishes one or more accounts as part of a scholarship program;

17. "Statute" means sections 166.400 to 166.455, RSMo, as amended from time-to-time; and

18. "Withdrawal due to death, disability or scholarship of beneficiary" means a distribution from an account established under the savings program—a) made because of death or disability of the beneficiary, or b) made because of the receipt of a scholarship by the beneficiary to the extent that such distribution does not exceed the amount of such scholarship.

(3) Purposes. The purposes of the savings program are—a) to encourage savings to enable students to continue their education by attending eligible educational institutions, and b) to enable participants and beneficiaries to avail themselves of tax benefits provided for qualified state tuition programs under the *Internal Revenue Code*.

(4) Program Administration and Management. The savings program shall be administered and managed in compliance with the provisions of the *Internal Revenue Code* (including section 529, other applicable sections and implementing regulations and guidelines), the statute and this rule. Procedures and forms for use in the administration and management of the savings program shall be subject to the approval of the board. If the board designates a third party to assist or act for the board with respect to the administration and management of the savings program, the references herein to the board shall govern such a designee of the board.

(5) Savings Program Participation and Participation Agreements.

(A) Beneficiary Eligibility. A beneficiary may be any individual designated as such in a participation agreement.

(B) Participant Eligibility. A participant may be any person—a) who submits to the board a completed participation agreement, and an address for each participant and beneficiary in the United States, and b) who otherwise meets the qualifications set forth in federal law, Missouri law and regulations governing the savings program. A participant that establishes a scholarship account shall provide the valid Social Security numbers or taxpayer identification numbers and addresses in the United States of each beneficiary of the applicable scholarship account prior to or in connection with a request for a distribution.

(C) Participation Agreements. To participate in the savings program, a prospective participant must submit a completed participation agreement with either an initial contribution or a selection of electronic funds transfer or payroll deduction as the method of initial contribution. The participation agreement will provide that the participant (and any successor account owner) will retain ownership of payments made under the program through the opening of an account in the name of the participant and for the benefit of the beneficiary designated by such participant (or the successor account owner). Only one (1) account owner and one (1) beneficiary is permitted per account, except that scholarship accounts may be established for the benefit of one (1) or more present or future beneficiaries. One (1) or more participants may establish accounts for a single beneficiary. Each participant agreement shall impose a penalty on the early distribution of funds in accordance with section 166.430, RSMo. Each participation agreement shall provide that the participation agreement may be canceled upon the terms and conditions set forth therein, subject to subsection (5)(I) below.

(D) Contributions. All contributions to accounts shall be in cash. The maximum amount which may be contributed annually by a participant with respect to a beneficiary shall be established by the board, from time-to-time, but in no event shall be more than the total contribution limit described in the succeeding sentence. The total contributions that may be held in an account shall be the amount established by the board from time-to-time, but in no event shall be more than the maximum amount permitted for the savings program to qualify as a "qualified state tuition program" pursuant to section 529 of the *Internal Revenue Code*.

(E) Excess Contributions and Balances. Contributions for any beneficiary shall be rejected (or, if accepted in error or resulting from a change of beneficiary, returned to the account owner with any earnings thereon and less any penalties applicable thereto) if the amount of the contributions in the account together with the contributions in other accounts established under the program for the benefit of the same beneficiary would cause the aggregate amount held for such beneficiary to exceed the maximum amount established by the board from time-to-time, but in no event more than the amount permitted under section 529 of the *Internal Revenue Code*. Any payment of such excess balances to the account owner shall be a non-qualified withdrawal subject to the penalties set forth in subsection (6)(D) below or such lesser amount as may be permitted by section 529 of the *Internal Revenue Code*.

(F) Changes to Beneficiary. An account owner may change the beneficiary designated for an account to any member of the family of the current beneficiary at any time, without penalty, by submitting a completed change of beneficiary form to the board in such form as the board may specify from time-to-time. Any change of beneficiary by an account owner other than as permitted in the foregoing sentence shall be a non-qualified withdrawal subject to the penalties set forth in subsection (6)(D) below.

(G) Rollover Distributions. An account owner may transfer, in a rollover distribution, all or part of the account balance to an account for another beneficiary who is a member of the family of the current beneficiary by submitting a completed request for transfer of account funds in such form as the board may specify from time-to-time.

(H) Changes of Account Ownership. An account owner may transfer ownership of an account to another person eligible to be a participant under the provisions of the statute and this rule, and upon receipt of a request for change of account owner that satisfies the criteria set forth in this subsection, the transferee shall be considered the account owner for all purposes related to the savings program, regardless of the source of subsequent contributions.

1. General rule. Any such change of account ownership shall be effective provided that the transfer—a) is irrevocable, b) trans-

fers all ownership, reversionary rights, and powers of appointments (i.e., power to change beneficiaries and to direct distributions from the account), and c) is submitted to the board on a change of account owner form in such form as the board may specify from time-to-time and completed by the account owner (or, in the event of the death of the account owner, by the personal representative of his or her estate).

2. Designation of contingent account owners. Any account owner that is an individual person may designate a contingent account owner for its account, to become the owner of the account automatically upon the death of such account owner. Upon the death of an account owner who has made such a designation of contingent account owner, the assets of the account shall not be deemed assets of such person's estate for any reason. Prior to the initial action taken by the contingent account owner following the death of the deceased account owner, the contingent account owner shall provide a certified copy of a death certificate sufficiently identifying said deceased account owner by name and Social Security number or taxpayer identification number, or such other proof of death as is recognized under applicable law.

(I) Cancellation. A participant may cancel a participation agreement at any time by submitting to the board's designee a notice to terminate the participation agreement in such form as the board may specify from time-to-time. Except as provided in section 166.430 of the statute, any non-qualified withdrawal distributed as a result of such cancellation shall be subject to the penalty as provided in subsection (6)(D) below.

(J) Copy of Agreement to Account Owner. Upon request by an account owner, the board shall provide the account owner with a copy of the participation agreement executed by the account owner, or inform the account owner that the board does not have a copy thereof, mailed within ten (10) business days of receipt of the account owner's request.

(K) Separate Accounting. The board shall provide separate accounting (as provided in section 529 of the *Internal Revenue Code*) for each beneficiary for each account.

(6) Payment of Benefits; Withdrawals.

(A) Qualified Withdrawals. An account owner may request a qualified withdrawal from its account by submitting a completed request for qualified withdrawal to the board in such form as the board may specify from time-to-time, provided that any such request for a qualified withdrawal may be made only after such account has been opened for a period of at least twelve (12) months.

(B) Withdrawals Due to Death, Disability or Scholarship of Beneficiary. An account owner may request a withdrawal due to death, disability or scholarship of beneficiary from its account by submitting a completed request for withdrawal due to death, disability or scholarship of beneficiary to the board in such form as the board may specify from time-to-time. Prior to a withdrawal due to death, disability or scholarship of beneficiary from an account due to the death or disability of the beneficiary of that account, or because the beneficiary has received a scholarship to be applied toward attendance at an eligible educational institution, the account owner shall certify the reason for the distribution and provide written confirmation from a third-party that the beneficiary has in fact died, become disabled with a disability, or received a scholarship for attendance at an eligible educational institution. A request to make a distribution due to the death or disability of, or a scholarship award to, the beneficiary shall not be considered complete until such third-party written confirmation is received by the board. For purposes of this subsection, third-party written confirmation shall consist of the following documentation:

1. For death of the beneficiary, a certified copy of a death certificate sufficiently identifying said beneficiary by name and Social Security number or taxpayer identification number, or such other proof of death as is recognized under applicable law;

2. For disability of the beneficiary, a certification by a physician who is a doctor of medicine or osteopathy that indicates that he or she is legally authorized to practice in a state of the United States and that the beneficiary is unable to attend any eligible educational institution because of an injury or illness that is expected to continue indefinitely or result in death. Such certification shall be on a form provided or approved by the board; and

3. For a scholarship award to the beneficiary, a letter from the grantor of the scholarship or from the eligible educational institution receiving or administering the scholarship, that identifies the beneficiary by name and Social Security number or taxpayer identification number as recipient of the scholarship and states the amount of the scholarship, the period of time or number of credits or units to which it applies, the date of the scholarship, and, if applicable, the eligible educational institution to which the scholarship is to be applied.

(C) Other Withdrawals. An account owner may request a distribution from an account that is made after amounts are held in such account for the minimum length of time permitted if at all by section 529 of the *Internal Revenue Code* without the imposition of a penalty. Such account owner may request such distribution by submitting a completed request for a distribution to the board in such form as the board may specify from time-to-time.

(D) Non-Qualified Withdrawals; Penalties. An account owner may request a non-qualified withdrawal by submitting a completed non-qualified withdrawal request form to the board in such form as the board may specify from time-to-time. Any such non-qualified withdrawal shall be subject to the penalty described in this subsection (6)(D). A penalty shall be withheld, and paid to the board from an account with respect to each non-qualified withdrawal, in an amount equal to ten percent (10%) of the earnings portion of such withdrawal. Such penalty amount is a more than *de minimis* penalty for the purposes of section 529 of the *Internal Revenue Code*. If required, such penalty amount shall be increased to the minimum amount identified by the Internal Revenue Service as a "safe harbor" in order for it to be more than *de minimis* for the purposes of section 529 of the *Internal Revenue Code*. Penalties shall be imposed, collected and applied in a manner consistent with section 529 of the *Internal Revenue Code*.

(E) Distribution Limitations. No distributions may be made within thirty (30) days of receipt by the board of a completed change of account owner form or request to change the mailing address of the account owner, unless the current account owner's signature is signature guaranteed on the request.

(F) Security. An account owner or beneficiary may not use any account or other interest in the savings program or any portion thereof as security for a loan.

(7) Investments.

(A) General (Investment Standards and Objectives). The board shall invest the funds received from participants, together with any income thereon, in such investments as the board shall reasonably determine will achieve a long-term total return through a combination of capital appreciation and current income. In exercising or delegating its investment powers and authority, the board shall exercise ordinary business care and prudence under the facts and circumstances prevailing at the time of the action or decision. In accordance with the standards established herein and in the statute, the board may invest, through the board or any investment manager, funds received pursuant to the savings program. Any such investment shall be made solely in the interest of the account owners and beneficiaries and for the exclusive purposes of providing benefits to beneficiaries and defraying reasonable expenses of administering the program. An account owner or beneficiary may not directly or indirectly direct the investment of any contributions or earnings of the savings program.

(B) Delegation of Investment Discretion. The board may delegate to its duly appointed investment counselor authority to act in place of board in the investment or reinvestment of all or part of

the funds, and may also delegate to such counselor the authority to act in place of the board in the holding, purchasing, selling, assigning, transferring or disposing of any or all of the securities and investments in which such funds shall have been invested, as well as the proceeds of such investments and such moneys. Such investment counselor shall be registered as an investment advisor with the United States Securities and Exchange Commission.

(8) Costs of Administration. All costs of administration of the savings program shall be borne by the account owners, from amounts paid as penalties on account of non-qualified withdrawals or early qualified withdrawals and from amounts on deposit in the accounts, as described in more detail in the participation agreements.

(9) Severability. If any provision of this rule, or the application of it to any person or circumstance, is determined to be invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions of this regulation which can be given effect without the invalid provision or application, and to that end, the provisions of this regulation are severable.

AUTHORITY: section 166.415, RSMo Supp. 1998. Emergency rule filed Aug. 30, 1999, effective Sept. 14, 1999, expires March 12, 2000. Original rule filed Aug. 30, 1999.

PUBLIC ENTITY COST: This proposed rule will cost state agencies or political subdivisions more than $500 in the aggregate, as set forth in the accompanying fiscal note.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Office of the Chairman of the Missouri Higher Education Savings Board, Bob Holden, State Treasurer, P.O. Box 210. Jefferson City, MO 65102. To be considered, comments must be received with thirty days of this notice in the ***Missouri Register****. No public hearing will be held.*

FISCAL NOTE
PUBLIC ENTITY COST

I. RULE NUMBER
Title:15—Elected Officials
Division: 50—State Treasurer
Chapter: 4 – the Missouri Higher Education Savings Program
Type of Rulemaking Proposed Rule
Rule Number and Name: 15 CSR 50-4.020 Missouri Higher Education Savings Board

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
State of Missouri	$120,000 to Unknown
Local Governments	$ 0 to $20,000

III. WORKSHEET

Attached hereto and incorporated herein by reference is the Fiscal Note for House Bill 1964 dated June 1, 1998, and prepared by the Committee on Legislative Research. H.B. 1964 enacted Section 166.400 through 166.155, known then as the MOSTARS Higher Education Savings Program. In 1999, S.B. 460 changed the name of the program to the Missouri Higher Education Savings Program and made technical changes to ensure compliance with Internal Revenue Service regulations. The Board adopts the estimates and assumptions made in the fiscal note relating to House Bill 1964, which can be obtained from the Committee on Legislative Research.

IV. ASSUMPTIONS

But for the enactment of this proposed Rule, the income tax benefits of the Missouri Higher Education Savings Program would not be available. The proposed Rule simply implements the provision of Sections 166.400 through 166.155. Nothing in this proposed Rule increases the financial burden on any entity, nor do the provisions of the proposed Rule decrease the revenues of the State or State entities beyond that decrease resulting from the income tax benefits flowing from Sections 166.400 through 166.155. Therefore, the Board adopts the estimates and assumptions made in the fiscal note relating to House Bill 1964, which can be obtained from the Committee on Legislative Research.

Title 19—DEPARTMENT OF HEALTH
Division 20—Division of Environmental Health and Epidemiology
Chapter 8—Lead Program

PROPOSED RESCISSION

19 CSR 20-8.010 Accreditation of Lead Training Program. This rule established the requirements for the accreditation of training programs for lead inspectors, lead abatement workers, and lead abatement contractors/supervisors.

PURPOSE: This rule is being rescinded because new rules 19 CSR 30-70.110–19 CSR 30-70.640 have been developed to expand and clarify the minimum standards for the lead abatement licensure and accreditation program and to address technological trends and advances.

AUTHORITY: sections 701.314, RSMo 1994. Emergency rule filed Nov. 2, 1994, effective Nov. 12, 1994, expired March 11, 1995. Emergency rule filed March 1, 1995, effective March 12, 1995, expired July 9, 1995. Original rule filed Nov. 2, 1994, effective June 30, 1995. Emergency rescission filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. Rescinded: Filed Aug. 19, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with Lois Kollmeyer, Division Director, Missouri Department of Health, Division of Health Standards and Licensure, P.O. Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 19—DEPARTMENT OF HEALTH
Division 20—Division of Environmental Health and Epidemiology
Chapter 8—Lead Program

PROPOSED RESCISSION

19 CSR 20-8.020 Licensing of Lead Inspectors, Lead Abatement Workers and Lead Abatement Super-visors/Contractors. This rule established the requirements for licensing lead inspectors, lead abatement workers, and lead abatement contractors/supervisors.

PURPOSE: This rule is being rescinded because new rules 19 CSR 30-70.110–19 CSR 30-70.640 have been developed to expand and clarify the minimum standards for the lead abatement licensure and accreditation program and to address technological trends and advances.

AUTHORITY: sections 701.314, RSMo 1994. Emergency rule filed Nov. 2, 1994, effective Nov. 12, 1994, expired March 11, 1995. Emergency rule filed March 1, 1995, effective March 11, 1995, expired July 9, 1995. Original rule filed Nov. 2, 1994, effective June 30, 1995. Emergency rescission filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. Rescinded: Filed Aug. 19, 1999.

PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with Lois Kollmeyer, Division Director, Missouri Department of Health, Division of Health Standards and Licensure, P.O. Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

PROPOSED RULE

19 CSR 30-70.110 Definitions and Abbreviations for Lead Abatement and Assessment Licensing

PURPOSE: This rule provides definitions and abbreviations to be used in the interpretation and enforcement of 19 CSR 30-70.110 through 19 CSR 30-70.200.

(1) EPA is the United States Environmental Protection Agency.

(2) Large-scale abatement project is a lead abatement project consisting of ten (10) or more dwellings.

(3) Occupation is one of the specific types or categories of lead-bearing substance activities identified in these regulations for which individuals may receive training from accredited training providers. This includes, but not limited to, lead inspector, risk assessor, lead abatement worker, lead abatement supervisor and/or project designer.

(4) OLLA is the Missouri Department of Health Office of Lead Licensing and Accreditation.

(5) Passing score is a grade of seventy percent (70%) or better on the state examination for a lead occupation license.

(6) Reciprocity is an agreement between OLLA and other states who have similar licensing provisions.

(7) Refresher course is the course of instruction established by these regulations which must be periodically completed to obtain or maintain an individual's licensure in a single occupation.

(8) Renewal is the reissuance of a lead occupation license.

(9) Training course, is the course of instruction established by these regulations to prepare an individual for licensure in a single occupation.

(10) Training provider is a person or entity providing training courses for the purpose of state licensure or licensure renewal in the occupations of lead inspector, risk assessor, lead abatement worker, lead abatement supervisor, and/or project designer.

AUTHORITY: sections 701.301 and 701.312, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. Original rule filed Aug. 19, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Lois Kollmeyer, Director, Division of Health Standards and Licensure, 920 Wildwood, Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

PROPOSED RULE

19 CSR 30-70.120 General

PURPOSE: This rule outlines specific responsibilities that apply to all applicants of a lead occupation license and all licensed individuals.

(1) Waiver. Applicants for licensure and/or licensees may authorize others, such as their employer, to act on their behalf regarding their license application. Such authorization shall be indicated on the application form provided by the Office of Lead Licensing and Accreditation (OLLA). If at any time the applicant and/or licensee decides to change this authorization, the applicant and/or the licensee shall notify OLLA in writing of such change.

(2) Change of Address. Licensed individuals shall notify OLLA in writing of a change of mailing address no later than thirty (30) days following the change. Licensed contractors shall notify OLLA in writing of a change of business address no later than thirty (30) days following the change. Until a change of address is received, all correspondence will be mailed to the individual's mailing address and the contractor's business address indicated on the most recent application form.

(3) Reciprocity. OLLA may issue a lead occupation license to any person or entity who has made application and provided proof of certification or licensure from another state, provided that OLLA has entered into a reciprocity agreement with that state, and the necessary fees have been paid.

(4) Suspension, Revocation or Restriction of a Lead Occupation License.

(A) OLLA may restrict, suspend or revoke a license issued under sections 701.300 through 701.338, RSMo, for any one or any combination of the following causes:

1. Providing any false information in the application;
2. Violations of 29 CFR part 1926.62 or 29 CFR part 1926.59;
3. History of citations or violations of existing lead abatement regulations or standards;
4. Fraud or failure to disclose facts relevant to his or her application and/or license;
5. Performing work requiring licensure at the job site without having proof of licensure;
6. Conviction of a felony under any state or federal law or having entered a plea of guilty or *nolo contendere* in a criminal prosecution under the laws of any state or of the United States;
7. Permitting the duplication or use of the individual's own training certificate, license, or license identification by another;
8. Performing work requiring licensure at a job site without being licensed;
9. Failure to comply with any state or federal law or regulation, including, but not limited to, any part of sections 701.300 through 701.338, RSMo, or any rules promulgated pursuant to these sections;
10. Other information which may affect the licensee's ability to appropriately perform lead-bearing substance activities; or
11. Final disciplinary action against a licensee by another state, territory, federal agency or country, whether or not voluntarily agreed to by the licensee, including, but not limited to, the denial of licensure, surrender of the license, allowing the license to expire or lapse, or discontinuing or restricting the license while subject to investigation or while actually under investigation by another state, territory, or federal agency or country.

(B) Prior to restricting, suspending, or revoking a license, the licensee will be given written notice of the reasons for the suspension, revocation and/or restriction. The licensee may appeal the determination of OLLA by requesting a hearing before the Administrative Hearing Commission as provided by section 621.045, RSMo.

(5) Replacement Fee. A fifteen dollar ($15)-fee will be assessed for duplicate and/or replacement license certificates or identification badges.

AUTHORITY: sections 701.301, 701.312 and 701.316, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. Original rule filed Aug. 19, 1999.

PUBLIC ENTITY COST: This proposed rule will have a total annual cost to state agencies or political subdivisions of $135,635 (adjusted annually for inflation).

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Lois Kollmeyer, Director, Division of Health Standards and Licensure, 920 Wildwood, Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

FISCAL NOTE
PUBLIC ENTITY COST

I. RULE NUMBER

Title: 19-DEPARTMENT OF HEALTH

Division: 30-Division of Health Standards & Licensure

Chapter: 70-Lead Abatement and Assessment Licensing, Training Accreditation

Type of Rule Making: New Rule

Rule Number and Name: 19 CSR 30-70.120-General

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Missouri Department of Health	$135,635

III. WORKSHEET

Personal Services:

Clerk Typist II	$18,204
Health Program Representative I	23,748
Health Program Representative II/III	31,932
Environmental Specialist I	22,032

Total Annual Personal Services: $95,916

Expenses & Equipment

Travel Expenses -
(audits, examinations,
inspections & investigations)

Health Program Representative I	$ 7,370
Environmental Specialist I	16,268
Health Program Representative II/III	7,370

Training & Conferences

Health Program Representative I	$ 660
Environmental Specialist I	4,987
Health Program Representative II/III	1,500

Equipment & Testing

Environmental Specialist I	1,564	
Total Annual Equipment & Expenses:		$39,719
Total Annual Personal Services & Expense & Equipment		$135,635

IV. ASSUMPTIONS

Because legislation that went into effect on August 28, 1998, repealed all similarly related statutes and regulations this fiscal note has been prepared as if there were no previous regulations and related fiscal notes.

With the exception of increased travel expenses to conduct audits, examinations, inspections and complaint investigations, the DOH estimates there is not a significant increase in the fiscal requirements for the Office of Lead Licensing and Accreditation program (OLLA), as the changes will be implemented with the current staff of 4 FTE.

OLLA staff are currently funded with a combination of EPA federal grant funds and licensing fees deposited in the Missouri Public Health Services Fund. Current fees collected and any new fees will be deposited into the General Revenue Fund instead of the Missouri Public Health Services Fund.

The estimated cost for personal services and expense and equipment is based upon the annual income, fringe benefits and the historical expenditures of the current OLLA staff.

If there was more than one method to calculate a cost, the most expensive method was used.

It is anticipated the total aggregated cost per year will recur each year for the life of the rule. The duration of this rule cannot be estimated. The cost will be adjusted by 5% annually for inflation.

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

PROPOSED RULE

19 CSR 30-70.130 Application Process and Requirements for the Licensure of Lead Inspectors

PURPOSE: This rule provides the requirements to be licensed as a lead inspector.

(1) Application for a Lead Inspector License.

(A) An applicant for a lead inspector license must submit a completed application to the Office of Lead Licensing and Accreditation (OLLA) prior to consideration for license issuance. All applications for licensure must be received by OLLA at least thirty (30) days prior to the date of the state lead examination; provided, however, OLLA may waive the time for the filing of applications as particular circumstances justify. Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The application shall include the following:

1. Completed lead occupation license application form provided by OLLA which shall include:

A. The applicant's full legal name, home address, and telephone number;

B. The name, address, and telephone number of the applicant's current employer;

C. The applicant's Social Security number;

D. The county or counties in which the applicant is employed;

E. The location where the applicant would like to receive correspondence regarding his or her application or license;

F. The occupation the applicant wishes to be licensed for;

G. Licensure for lead occupations in other states, including name of other states, type of license, license expiration date, and license number, and copies of other states' license/certificate;

H. Certification by the Environmental Protection Agency (EPA), including EPA region number, type of certification, certification expiration date, certification number, and a copy of the EPA certificate;

I. Type of training completed, including name of training provider, certificate identification number and dates of course completion;

J. Employment history and/or education which meets the experience and/or education requirements in paragraph (3)(B)1. of this regulation; and

K. Signature of the applicant which certifies that all information in the application is complete and true to the best of the applicant's knowledge and that the applicant will comply with applicable state statutes and regulations.

2. A copy of the OLLA- or EPA-accredited lead inspector training program completion certificate, and any required refresher completion certificates;

3. Two (2) recent passport-size color photographs of the applicant's face without a hat or sunglasses (computer generated or photocopied photographs are not acceptable);

4. Documentation pursuant to paragraph (3)(B)2. of this regulation as evidence of meeting the education and/or experience requirements for lead inspectors; and

5. A check or money order made payable to the Missouri Department of Health for the nonrefundable fee of one hundred dollars ($100).

(C) An applicant for a lead inspector license shall apply to OLLA within one (1) year of the applicant's successful completion of an OLLA- or EPA-accredited lead inspector training course, as indicated on the certificate of completion. Applicants failing to apply within one (1) year from the date on the training course completion certificate shall, before making application for license, successfully complete the eight (8)-hour lead inspector refresher training course accredited by OLLA or the EPA.

(D) Applicants failing to apply within three (3) years of the lead inspector training and who have not successfully completed annual refresher training, shall successfully complete the OLLA- or EPA-accredited lead inspector training course again before submitting application for a lead inspector license.

(2) Application for a Lead Inspector License Under Reciprocity.

(A) An applicant for a lead inspector license by reciprocity must submit a completed application to OLLA prior to consideration for license issuance. Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The application shall include the following:

1. Completed lead occupation license application form provided by OLLA which shall include:

A. The applicant's full legal name, home address, and telephone number;

B. The name, address, and telephone number of the applicant's current employer;

C. The applicant's Social Security number;

D. The location where the applicant would like to receive correspondence regarding his or her application or license;

E. The occupation the applicant wishes to be licensed for;

F. Licensure for lead occupations in other states, including name of other states, type of license, license expiration date, and license number, and copies of other states' license/certificate;

G. Certification by the EPA, including EPA region number, type of certification, certification expiration date, certification number, and a copy of the EPA certificate; and

H. Signature of the applicant which certifies that all information in the application is complete and true to the best of the applicant's knowledge and that the applicant will comply with applicable state statutes and regulations;

2. Two (2) recent passport-size color photographs of the applicant's face without a hat or sunglasses (computer generated or photocopied photographs are not acceptable); and

3. A check or money order made payable to the Missouri Department of Health for the nonrefundable fee of one hundred dollars ($100).

(3) Training, Education and Experience Requirements for Lead Inspector License.

(A) An applicant for a license as a lead inspector shall complete an OLLA- or EPA-accredited lead inspector training program (see 19 CSR 30-70.330) and pass the course examination with a score of seventy percent (70%) or more.

(B) An applicant for a license as a lead inspector shall meet minimum education and/or experience requirements for a licensed lead inspector.

1. The minimum education and/or experience requirements for licensed lead inspector includes at least one (1) of the following:

A. A bachelor's degree;

B. An associate's degree and one (1) year experience in a related field such as lead, asbestos, housing repair or inspection, and/or environmental hazard remediation work; or

C. A high school diploma or certificate of high school equivalency (GED) and two (2) years of experience in a related field such as lead, asbestos, housing repair or inspection, and/or environmental hazard remediation work.

2. The following documents will be recognized by OLLA as evidence of meeting the requirements listed in subsection (3)(B) of this regulation:

A. Official academic transcripts or diploma as evidence of meeting the education requirements;

B. Resumes, letters of reference, or documentation of work experience, which, at a minimum, includes dates (month and year) of employment, employer's name, address and telephone number, and specific job duties, as evidence of meeting the work experience requirements; and

C. Course completion certificates issued by the OLLA- or EPA-accredited training program as evidence of meeting the training requirements.

(4) Procedure for Issuance or Denial of Lead Inspector License.

(A) OLLA will inform the applicant in writing that the application is either approved, incomplete, or denied.

1. If an application is incomplete, the notice will include a list of additional information or documentation required to complete the application.

A. Within thirty (30) calendar days after the issuance date of the notice, the applicant shall submit to OLLA in writing, the information requested in the written notice.

B. Failure to submit the information requested in the written notice within thirty (30) calendar days shall result in OLLA's denial of the applicant's application for a lead inspector license.

C. After receipt of the information requested in the written notice, OLLA will inform the applicant in writing that the application is either approved or denied.

2. When an application for a lead inspector license is denied, the written notice of denial to the applicant will specify the reasons for the denial. OLLA may deny a lead inspector license for any one (1) or any combination of the following reasons:

A. Failure to satisfy the education and/or experience requirements;

B. Type and amount of training;

C. False or misleading statements in the application;

D. Failure to achieve a passing score on the state examination after three (3) attempts;

E. Failure to submit a complete application;

F. History of citations or violations of existing lead abatement regulations or standards;

G. Violations of 29 CFR part 1926.62 or 29 CFR part 1926.59;

H. Fraud or failure to disclose facts relevant to his or her application;

I. Conviction of a felony under any state or federal law or having entered a plea of guilty or *nolo contendere* in a criminal prosecution under the laws of any state or of the United States;

J. Permitting the duplication or use by another of the individual's training certificate;

K. Other information which may affect the applicant's ability to appropriately perform lead inspections;

L. Failure to comply with any state or federal law or regulation, including, but not limited to, any part of sections 701.300 through 701.338, RSMo, or any rules promulgated pursuant to those sections; or

M . Final disciplinary action against a licensee by another state, territory, federal agency or country, whether or not voluntarily agreed to by the licensee, including, but not limited to, the denial of licensure, surrender of the license, allowing the license to expire or lapse, or discontinuing or restricting the license while subject to investigation or while actually under investigation by another state, territory, or federal agency or country.

3. If an application is denied, the applicant may reapply to OLLA for a lead inspector license by submitting a complete lead occupation license application form with another nonrefundable fee of one hundred dollars ($100).

4. If an applicant is aggrieved by a determination to deny licensure, the applicant may appeal OLLA's denial to the Administrative Hearing Commission as provided by section 621.045, RSMo.

(B) Within one hundred and eighty (180) calendar days of application approval, the applicant shall attain a passing score on the state lead inspector examination.

1. An applicant cannot sit for the state lead inspector examination more than three (3) times within one hundred and eighty (180) calendar days after the issuance date of the notice of an approved application.

2. The applicant's failure to attain a passing score on the state lead inspector examination within the one hundred eighty (180)-day period following the notice of an approved application for a license shall result in OLLA's denial of the applicant's application for a license. The individual may reapply to OLLA pursuant to this regulation but only after retaking an OLLA- or EPA-accredited lead inspector training course.

(C) After the applicant passes the state lead inspector examination, OLLA will issue a two (2)-year lead inspector license certificate and photo identification badge.

(D) Restricted licenses may be issued pursuant to an agreement between the applicant or licensee and OLLA.

AUTHORITY: sections 701.301, 701.312 and 701.316, RSMo 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. Original rule filed Aug. 19, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will have a total annual cost to private entities of $80,382 (adjusted annually for inflation) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Lois Kollmeyer, Director, Division of Health Standards and Licensure, 920 Wildwood, Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

FISCAL NOTE
PRIVATE ENTITY COST

I. RULE NUMBER

Title: 19-DEPARTMENT OF HEALTH

Division: 30-Division of Health Standards & Licensure

Chapter: 70-Lead Abatement and Assessment Licensing, Training Accreditation

Type of Rule Making: New Rule

Rule Number and Name: 19 CSR 30-70.130-Application Process and Requirements for the Licensure of Lead Inspectors

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimate n the aggregate as to the cost of compliance with the rule by the affected entities.
* 112	Applicants for Licensure	$80,382.00

III. WORKSHEET

$5.75 to complete an application + $100 application fee + $12.95 cost for two passport pictures + $599 training course = $717.70 cost to applicant.

$717.70 (cost to applicant) x 112 (estimated # of applicants) = $80,382.00 annually.

IV. ASSUMPTIONS

Because legislation that went in to effect on August 28, 1998, repealed all similarly related statutes and regulations this fiscal note has been prepared as if there were no previous regulations and related fiscal notes.

* The DOH estimates that under the proposed work practice standards the lead inspection process will change significantly to the point of being considered a risk assessment process. Therefore, the DOH anticipates the numbers of applicants annually for this license will not increase substantially. Based upon OLLA data, 163 applicants submitted initial application for this license in 1997; 61 submitted application in 1998. The DOH estimates that annually 112 applicants will apply for licensure.

The DOH anticipates that the cost for licensure for some applicants will be incurred by the employer; however, this number is not known.

The licensure fee will continue to be $100. Licenses will be issued for a period of two years.

The cost to complete an application ($5.75) is based on it taking fifteen minutes for a worker with an hourly wage of $23 (not including fringe benefits and indirect costs) to complete an application and mail it to the department.

The estimated cost of two passport size pictures is currently $12.95.

Based upon OLLA data, the course fee for an accredited lead inspector training course ranges across the State of Missouri from $395 to $599 per enrollee.

There are no fees for the state licensure examination.

All costs are based on approximations and estimations by the department.

If there was more than one method to calculate a cost, the most expensive method was used.

It is anticipated the total aggregated cost per year will recur each year for the life of the rule. The duration of this rule cannot be estimated. The cost will be adjusted by 5% annually for inflation.

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

PROPOSED RULE

19 CSR 30-70.140 Application Process and Requirements for the Licensure of Risk Assessors

PURPOSE: This rule provides the requirements to be licensed as a risk assessor.

(1) Application for a Risk Assessor License.

(A) An applicant for a risk assessor license must submit a completed application to the Office of Lead Licensing and Accreditation (OLLA) prior to consideration for license issuance. All applications for licensure must be received by OLLA at least thirty (30) days prior to the date of the state lead examination; provided, however, OLLA may waive the time for the filing of applications as particular circumstances justify. Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The application shall include the following:

1. Completed lead occupation license application form provided by OLLA which shall include:

A. The applicant's full legal name, home address, and telephone number;

B. The name, address, and telephone number of the applicant's current employer;

C. The applicant's Social Security number;

D. The county or counties in which the applicant is employed;

E. The location where the applicant would like to receive correspondence regarding his or her application or license;

F. The occupation the applicant wishes to be licensed for;

G. Type of training completed, including name of training provider, certificate identification number and dates of course completion;

H. Licensure for lead occupations in other states, including name of other states, type of license, license expiration date, and license number, and copies of other states' license/certificate;

I. Certification by the Environmental Protection Agency (EPA), including EPA region number, type of certification, certification expiration date, certification number, and a copy of the EPA certificate;

J. Employment history and/or education which meets the experience and/or education requirements in paragraph (3)(B)1. of this regulation; and

K. Signature of the applicant which certifies that all information in the application is complete and true to the best of the applicant's knowledge and that the applicant will comply with applicable state statutes and regulations;

2. A copy of the OLLA- or EPA-accredited lead inspector and risk assessor training program completion certificates and any required refresher completion certificates;

3. Two (2) recent passport-size color photographs of the applicant's face without a hat or sunglasses (computer generated or photocopied photographs are not acceptable);

4. Documentation pursuant to paragraph (3)(B)2. of this regulation as evidence of meeting the education and/or experience requirements for risk assessors; and

5. A check or money order made payable to the Missouri Department of Health for the nonrefundable fee of one hundred dollars ($100).

(C) An applicant for a risk assessor license shall apply to OLLA within one (1) year of the applicant's successful completion of an OLLA- or EPA-accredited risk assessor training course, as indicated on the certificate of completion. Applicants failing to apply within one (1) year from the date on the training program completion certificates shall, before making application for license, successfully complete the eight (8)-hour risk assessor refresher training course accredited by OLLA or the EPA.

(D) Applicants failing to apply within three (3) years of the risk assessor training and who have not successfully completed annual refresher training, shall successfully complete the OLLA- or EPA-accredited risk assessor training course again before submitting application for a risk assessor license.

(2) Application for a Risk Assessor License Under Reciprocity.

(A) An applicant for a risk assessor license by reciprocity must submit a completed application to OLLA prior to consideration for license issuance. Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The application shall include the following:

1. Completed lead occupation license application form provided by OLLA which shall include:

A. The applicant's full legal name, home address, and telephone number;

B. The name, address, and telephone number of the applicant's current employer;

C. The applicant's Social Security number;

D. The location where the applicant would like to receive correspondence regarding his or her application or license;

E. The occupation the applicant wishes to be licensed for;

F. Licensure for lead occupations in other states, including name of other states, type of license, license expiration date, and license number, and copies of other states' license/certificate;

G. Certification by the EPA, including EPA region number, type of certification, certification expiration date, certification number, and a copy of the EPA certificate; and

H. Signature of the applicant which certifies that all information in the application is complete and true to the best of the applicant's knowledge and that the applicant will comply with applicable state statutes and regulations;

2. Two (2) recent passport-size color photographs of the applicant's face without a hat or sunglasses (computer generated or photocopied photographs are not acceptable); and

3. A check or money order made payable to the Missouri Department of Health for the nonrefundable fee of one hundred dollars ($100).

(3) Training, Education and Experience Requirements for Risk Assessor License.

(A) An applicant for a license as a risk assessor shall complete an OLLA- or EPA-accredited lead inspector training program and an OLLA- or EPA-accredited risk assessor training program (see 19 CSR 30-70.340) and pass both of the course examinations with a score of seventy percent (70%) or more.

(B) An applicant for a license as a risk assessor shall meet minimum education and/or experience requirements for a licensed risk assessor.

1. The minimum education and/or experience requirements for a licensed risk assessor includes at least one (1) of the following:

A. A bachelor's degree and at least one (1) year of experience in a related field such as lead, asbestos, housing repair or inspection, and/or environmental hazard remediation work;

B. An associate's degree and two (2) years experience in a related field such as lead, asbestos, housing repair or inspection, and/or environmental hazard remediation work;

C. Certification as an industrial hygienist, professional engineer, registered architect and/or certification in a related engineering/health/environmental field such as safety professional or environmental scientist; or

D. A high school diploma or certificate of high school equivalency (GED) and three (3) years of experience in a related field such as lead, asbestos, housing repair or inspection, and/or environmental hazard remediation work.

2. The following documents will be recognized by OLLA as evidence of meeting the requirements listed in paragraph (3)(B)1. of this regulation:

A. Official academic transcripts or diploma, as evidence of meeting the education requirements;

B. Resumes, letters of reference, or documentation of work experience, which includes dates (month and year) of employment, employer's name, address and telephone number, and specific job duties, as evidence of meeting the work experience requirements;

C. Course completion certificates issued by the OLLA- or EPA-accredited training program, as evidence of meeting the training requirements; and

D. Appropriate documentation of certifications or registrations.

(4) Procedure for Issuance or Denial of Risk Assessor License.

(A) OLLA will inform the applicant in writing that the application is either approved, incomplete, or denied.

1. If an application is incomplete, the notice will include a list of additional information or documentation required to complete the application.

A. Within thirty (30) calendar days after the issuance date of the notice of incomplete application, the applicant shall submit to OLLA in writing the information requested in the written notice.

B. Failure to submit the information requested in the written notice within thirty (30) calendar days shall result in OLLA's denial of the applicant's application for a risk assessor license.

C. After receipt of the information requested in the written notice, OLLA will inform the applicant in writing that the application is either approved or denied.

2. When an application for a risk assessor license is denied, the written notice of denial to the applicant will specify the reasons for the denial. OLLA may deny a risk assessor license for any one (1) or any combination of the following reasons:

A. Failure to satisfy the education and/or experience requirements;

B. Type and amount of training;

C. False or misleading statements in the application;

D. Failure to achieve a passing score on the state examination after three (3) attempts;

E. Failure to submit a complete application;

F. History of citations or violations of existing lead abatement regulations or standards;

G. Violations of 29 CFR part 1926.62 or 29 CFR part 1926.59;

H. Fraud or failure to disclose facts relevant to his or her application;

I. Conviction of a felony under any state or federal law or having entered a plea of guilty or *nolo contendere* in a criminal prosecution under the laws of any state or of the United States;

J. Permitting the duplication or use by another of the individual's training certificate;

K. Other information which may affect the applicant's ability to appropriately perform risk assessments;

L. Failure to comply with any state or federal law or regulation, including, but not limited to, any part of sections 701.300 through 701.338, RSMo, or any rules promulgated pursuant to these sections; or

M. Final disciplinary action against a licensee by another state, territory, federal agency or country, whether or not voluntarily agreed to by the licensee, including, but not limited to, the denial of licensure, surrender of the license, allowing the license to expire or lapse, or discontinuing or restricting the license while subject to investigation or while actually under investigation by another state, territory, or federal agency or country.

3. If an application is denied, the applicant may reapply to OLLA for a risk assessor license, by submitting a complete lead occupation license application form and another nonrefundable fee of one hundred dollars ($100).

4. If an applicant is aggrieved by a determination to deny licensure, the applicant may appeal OLLA's denial to the Administrative Hearing Commission as provided by section 621.045, RSMo.

(B) Within one hundred and eighty (180) calendar days after the issuance date of application approval, the applicant shall attain a passing score on the state risk assessor examination.

1. An applicant cannot sit for the state risk assessor examination more than three (3) times within one hundred and eighty (180) calendar days after the issuance date of the notice of an approved application.

2. The applicant's failure to attain a passing score on the state risk assessor exam within the one hundred eighty (180)-day period following the notice of an approved application for a license shall result in OLLA's denial of the applicant's application for a license. The individual may reapply to OLLA pursuant to this regulation but only after retaking an OLLA- or EPA-accredited risk assessor training course.

(C) After the applicant passes the state risk assessor examination, OLLA will issue a two (2)-year risk assessor license certificate and photo identification badge.

(D) Restricted licenses may be issued pursuant to an agreement between the applicant or licensee and OLLA.

AUTHORITY: sections 701.301, 701.312 and 701.316, RSMo 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. Original rule filed Aug. 19, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will have a total annual cost to private entities of $176,171 (adjusted annually for inflation).

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Lois Kollmeyer, Director, Division of Health Standards and Licensure, 920 Wildwood, Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

FISCAL NOTE
PRIVATE ENTITY COST

I. RULE NUMBER

Title: 19-DEPARTMENT OF HEALTH

Division: 30-Division of Health Standards & Licensure

Chapter: 70-Lead Abatement and Assessment Licensing, Training Accreditation

Type of Rule Making: New Rule

Rule Number and Name: 19 CSR 30-70.140-Application Process and Requirements for the Licensure of Risk Assessors

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimate n the aggregate as to the cost of compliance with the rule by the affected entities.
* 165	Applicants for Licensure	$176,171.00

III. WORKSHEET

$5.75 to complete an application + $100 application fee + $12.95 cost for two passport pictures + $599 lead inspector training course + $350 risk assessor training course = $1,067.70 cost to applicant.

$1,067.70 (cost to applicant) x 165 (estimated # of applicants) = $176,171.00 annually.

IV. ASSUMPTIONS

Because legislation that went in to effect on August 28, 1998, repealed all similarly related statutes and regulations this fiscal note has been prepared as if there were no previous regulations and related fiscal notes.

* Under the proposed work practice standards, the DOH anticipates the lead inspection process will change significantly to where it will be considered a risk assessment process. Therefore, the DOH estimates the number of applicants for the license will be more in line with the annual number of applicants who in the past have applied for initial licensure as lead inspectors. According to OLLA data, in 1997 163 initial applicants applied for licensure as lead inspectors; in 1998 61 applied for licensure as lead inspectors. As the result of the proposed work practice standards, the DOH anticipates that 165 applicants a year will make initial application to OLLA for licensure as a risk assessor. This estimate is based upon the higher number of applicants who applied for the lead inspector license in 1997.

The DOH anticipates that the cost for licensure for some applicants will be incurred by the employer; however, the number is not known.

Licenses will be issued for a two year period. The license fee is $100.

The cost to complete an application ($5.75) is based on it taking fifteen minutes for a worker with an hourly wage of $23 (not including fringe benefits and indirect costs) to complete an application and mail it to the department.

The estimated cost of two passport size pictures is currently $12.95.

The applicant for this license must successfully complete both the accredited lead inspector training course and the accredited lead risk assessor training course. Based upon OLLA data, across the State of Missouri the course fee for an accredited lead inspector training course ranges from $395 to $599; the course fee for the accredited risk assessor training course ranges from $265 to $350.

There are no fees for the state licensure examination.

If there was more than one method to calculate a cost, the most expensive method was used.

It is anticipated the total aggregated cost per year for standard licensure will recur each year for the life of the rule. The duration of this rule cannot be estimated. The cost will be adjusted by 5% annually for inflation.

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

PROPOSED RULE

19 CSR 30-70.150 Application Process and Requirements for the Licensure of Lead Abatement Workers

PURPOSE: This rule provides the requirements to be licensed as a lead abatement worker.

(1) Application for a Lead Abatement Worker License.

(A) An applicant for a lead abatement worker license must submit a completed application to the Office of Lead Licensing and Accreditation (OLLA) prior to consideration for license issuance. All applications for licensure must be received by OLLA at least thirty (30) days prior to the date of the lead abatement project; provided, however, OLLA may waive the time for the filing of applications as particular circumstances justify. Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The application shall include the following:

1. Completed lead occupation license application form provided by OLLA which shall include:

A. The applicant's full legal name, home address, and telephone number;

B. The name, address, and telephone number of the applicant's current employer;

C. The applicant's Social Security number;

D. The county or counties in which the applicant is employed;

E. The location where the applicant would like to receive correspondence regarding his or her application or license;

F. The occupation the applicant wishes to be licensed for;

G. Licensure for lead occupations in other states, including name of other states, type of license, license expiration date, and license number, and copies of other states' license/certificate;

H. Certification by the Environmental Protection Agency (EPA), including EPA region number, type of certification, certification expiration date, certification number, and a copy of the EPA certificate;

I. Type of training completed, including name of training provider, certificate identification number and dates of course completion; and

J. Signature of the applicant which certifies that all information in the application is complete and true to the best of the applicant's knowledge and that the applicant will comply with applicable state statutes and regulations;

2. A copy of the OLLA- or EPA-accredited lead abatement worker training program completion certificate, and any required refresher completion certificates;

3. Two (2) recent passport-size color photographs of the applicant's face without a hat or sunglasses (computer generated or photocopied photographs are not acceptable); and

4. A check or money order made payable to the Missouri Department of Health for the nonrefundable fee of one hundred dollars ($100).

(C) An applicant for a lead abatement worker license shall apply to OLLA within one (1) year of the applicant's successful completion of an OLLA- or EPA-accredited lead abatement worker training course, as indicated on the certificate of completion. Applicants failing to apply within one (1) year from the date on the training program completion certificate shall, before making application for license, successfully complete the eight (8)-hour lead abatement worker refresher training course accredited by OLLA or the EPA.

(D) Applicants failing to apply within three (3) years of the lead abatement worker training and who have not successfully completed annual refresher training, shall successfully complete the OLLA- or EPA-accredited lead abatement worker training course again before submitting application for a lead abatement worker license.

(2) Application for a Lead Abatement Worker License Under Reciprocity.

(A) An applicant for a lead abatement worker license by reciprocity must submit a completed application to OLLA prior to consideration for license issuance. Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The application shall include the following:

1. Completed lead occupation license application form provided by OLLA which shall include:

A. The applicant's full legal name, home address, and telephone number;

B. The name, address, and telephone number of the applicant's current employer;

C. The applicant's Social Security number;

D. The location where the applicant would like to receive correspondence regarding his or her application or license;

E. The occupation the applicant wishes to be licensed for;

F. Licensure for lead occupations in other states, including name of other states, type of license, license expiration date, and license number, and copies of other states' license/certificate;

G. Certification by the EPA, including EPA region number, type of certification, certification expiration date, certification number, and a copy of the EPA certificate; and

H. Signature of the applicant which certifies that all information in the application is complete and true to the best of the applicant's knowledge and that the applicant will comply with applicable state statutes and regulations;

2. Two (2) recent passport-size color photographs of the applicant's face without a hat or sunglasses (computer generated or photocopied photographs are not acceptable); and

3. A check or money order made payable to the Missouri Department of Health for the nonrefundable fee of one hundred dollars ($100).

(3) Training Requirements for Lead Abatement Worker License. An applicant for a license as a lead abatement worker shall complete an OLLA- or EPA-accredited lead abatement worker training program (see 19 CSR 30-70.350) and pass the course examination with a score of seventy percent (70%) or more. The document that will be recognized by OLLA as evidence of meeting the requirement is listed in subsection (1)(C) of this regulation.

(4) Procedure for Issuance or Denial of Lead Abatement Worker License.

(A) OLLA will inform the applicant in writing that the application is either approved, incomplete, or denied.

1. If an application is incomplete, the notice will include a list of additional information or documentation required to complete the application.

A. Within thirty (30) calendar days after the issuance date of the notice of incomplete application, the applicant shall submit to OLLA in writing, the information requested in the written notice.

B. Failure to submit the information requested in the written notice within thirty (30) calendar days shall result in OLLA's denial of the applicant's application for a lead abatement worker.

C. After receipt of the information requested in the written notice, OLLA will inform the applicant in writing that the application is either approved or denied.

2. When an application for a lead abatement worker license is denied, the written notice of denial to the applicant will specify the reasons for the denial. OLLA may deny a lead abatement worker license for any one (1) or any combination of the following reasons:

A. Type and amount of training;

B. False or misleading statements in the application;

C. Failure to submit a complete application;

D. History of citations or violations of existing lead abatement regulations or standards;

E. Violations of 29 CFR part 1926.62 or 29 CFR part 1926.59;

F. Fraud or failure to disclose facts relevant to his or her application;

G. Conviction of a felony under any state or federal law or having entered a plea of guilty or *nolo contendere* in a criminal prosecution under the laws of any state or of the United States;

H. Permitting the duplication or use by another of the individual's training certificate;

I. Other information which may affect the applicant's ability to appropriately perform lead abatement work;

J. Failure to comply with any state or federal law or regulation, including, but not limited to, any part of sections 701.300 through 701.338, RSMo, or any rules promulgated pursuant to these sections; or

K. Final disciplinary action against a licensee by another state, territory, federal agency or country, whether or not voluntarily agreed to by the licensee, including, but not limited to, the denial of licensure, surrender of the license, allowing the license to expire or lapse, or discontinuing or restricting the license while subject to investigation or while actually under investigation by another state, territory, or federal agency or country.

3. If an application is denied, the applicant may reapply to OLLA by submitting a complete lead occupation license application form with another nonrefundable fee of one hundred dollars ($100).

4. If an applicant is aggrieved by a determination to deny licensure, the applicant may appeal OLLA's denial to the Administrative Hearing Commission as provided by section 621.045, RSMo.

(B) After notice of complete application, OLLA will issue a two (2)-year license certificate and photo identification badge.

(C) Restricted licenses may be issued pursuant to an agreement between the applicant or licensee and OLLA.

AUTHORITY: sections 701.301, 701.312 and 701.316, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. Original rule filed Aug. 19, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will have a total annual cost to private entities of $212,647 (adjusted annually for inflation).

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Lois Kollmeyer, Director, Division of Health Standards and Licensure, 920 Wildwood, Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

PRIVATE ENTITY COST

I. RULE NUMBER

Title: 19-DEPARTMENT OF HEALTH

Division: 30-Division of Health Standards & Licensure

Chapter: 70-Lead Abatement and Assessment Licensing, Training Accreditation

Type of Rule Making: New Rule

Rule Number and Name: 19 CSR 30-70.150-Application Process and Requirements for the Licensure of Lead Abatement Workers

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimate n the aggregate as to the cost of compliance with the rule by the affected entities.
* 318	Applicants for Licensure	$212,647.00

III. WORKSHEET

$5.75 to complete an application + $100 application fee + $12.95 cost for two passport pictures + $550 training course = $668.70 cost to applicant.

$668.70 (cost to applicant) x 318 (estimated # of applicants) = $212,647.00 annually.

IV. ASSUMPTIONS

Because legislation that went in to effect on August 28, 1998, repealed all similarly related statutes and regulations this fiscal note has been prepared as if there were no previous regulations and related fiscal notes.

* Based upon OLLA data, in 1997 318 applicants applied for initial licensure in this category; 258 applied in 1998. The DOH estimates the number of applicants who will apply for licensure in this category annually is 318.

The DOH anticipates that the cost for licensure for some applicants will be incurred by the employer; however, the number is not known.

The DOH will continue to issue 2 year licenses. Under the proposed new rule, the initial applicant licensure fee will increase from the current fee of $50 to $100.

The cost to complete an application ($5.75) is based on it taking fifteen minutes for a worker with an hourly wage of $23 (not including fringe benefits and indirect costs) to complete an application and mail it to the department.

The estimated cost for two passport size pictures is currently $12.95.

The applicant for this license must successfully complete the accredited lead abatement worker training course. Based upon OLLA data, the course fee for an accredited lead abatement worker training course ranges across the State of Missouri from $345 to $550.

There are no fees for the state licensure examination.

If there was more than one method to calculate a cost, the most expensive method was used.

The DOH anticipates that the total aggregated cost per year for licensure will recur each year for the life of the rule. The duration of this rule cannot be estimated. The cost will be adjusted by 5% annually for inflation.

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

PROPOSED RULE

19 CSR 30-70.160 Application Process and Requirements for the Licensure of Lead Abatement Supervisors

PURPOSE: This rule provides the requirements to be licensed as a lead abatement supervisor.

(1) Application for a Lead Abatement Supervisor License.

(A) An applicant for a lead abatement supervisor license must submit a completed application to the Office of Lead Licensing and Accreditation (OLLA) prior to consideration for license issuance. All applications for licensure must be received by OLLA at least thirty (30) days prior to the date of the state lead examination; provided, however, OLLA may waive the time for the filing of applications as particular circumstances justify. Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The application shall include the following:

1. Completed lead occupation license application form provided by OLLA which shall include:

A. The applicant's full legal name, home address, and telephone number;

B. The name, address, and telephone number of the applicant's current employer;

C. The applicant's Social Security number;

D. The county or counties in which the applicant is employed;

E. The location where the applicant would like to receive correspondence regarding his or her application or license;

F. The occupation the applicant wishes to be licensed for;

G. Type of training completed, including name of training provider, certificate identification number and dates of course completion;

H. Licensure for lead occupations in other states, including name of other states, type of license, license expiration date, and license number, and copies of other states' license/certificate;

I. Certification by the Environmental Protection Agency (EPA), including EPA region number, type of certification, certification expiration date, certification number, and a copy of the EPA certificate;

J. Employment history which meets the experience requirements in paragraph (3)(B)1. of this regulation; and

K. Signature of the applicant which certifies that all information in the application is complete and true to the best of the applicant's knowledge and that the applicant will comply with applicable state statutes and regulations;

2. A copy of the OLLA- or EPA-accredited lead abatement supervisor training program completion certificate, and any required refresher completion certificates;

3. Two (2) recent passport-size color photographs of the applicant's face without a hat or sunglasses (computer generated or photocopied photographs are not acceptable);

4. Documentation pursuant to paragraph (3)(B)2. of this regulation as evidence of meeting the experience requirements for lead abatement supervisors; and

5. A check or money order made payable to the Missouri Department of Health for the nonrefundable fee of one hundred dollars ($100).

(C) An applicant for a lead abatement supervisor license shall apply to OLLA within one (1) year of the applicant's successful completion of an OLLA- or EPA-accredited lead abatement supervisor training course, as indicated on the certificate of completion. Applicants failing to apply within one (1) year from the date on the training program completion certificate shall, before making application for license, successfully complete the eight (8) hour lead abatement supervisor refresher training course accredited by OLLA or the EPA.

(D) Applicants failing to apply within three (3) years of completing the lead abatement supervisor training and who have not successfully completed annual refresher training, shall successfully complete the OLLA- or EPA-accredited lead abatement supervisor training course again before submitting application for a lead abatement supervisor license.

(2) Application for a Lead Abatement Supervisor License Under Reciprocity.

(A) An applicant for a Lead Abatement Supervisor license by reciprocity must submit a completed application to OLLA prior to consideration for license issuance. Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The application shall include the following:

1. Completed lead occupation license application form provided by OLLA which shall include:

A. The applicant's full legal name, home address, and telephone number;

B. The name, address, and telephone number of the applicant's current employer;

C. The applicant's Social Security number;

D. The location where the applicant would like to receive correspondence regarding his or her application or license;

E. The occupation the applicant wishes to be licensed for;

F. Licensure for lead occupations in other states, including name of other states, type of license, license expiration date, and license number, and copies of other states' license/certificate;

G. Certification by the EPA, including EPA region number, type of certification, certification expiration date, certification number, and a copy of the EPA certificate; and

H. Signature of the applicant which certifies that all information in the application is complete and true to the best of the applicant's knowledge and that the applicant will comply with applicable state statutes and regulations;

2. Two (2) recent passport-size color photographs of the applicant's face without a hat or sunglasses (computer generated or photocopied photographs are not acceptable); and

3. A check or money order made payable to the Missouri Department of Health for the nonrefundable fee of one hundred dollars ($100).

(3) Training and Experience Requirements for Lead Abatement Supervisor License.

(A) An applicant for a license as a lead abatement supervisor shall complete an OLLA- or EPA-accredited lead abatement supervisor training program (see 19 CSR 30-70.360) and pass the course examination with a score of seventy percent (70%) or more.

(B) An applicant for a license as a lead abatement supervisor shall meet minimum experience requirements for a licensed lead abatement supervisor.

1. The minimum experience requirements for a licensed lead abatement supervisor licensure includes at least one (1) of the following:

A. At least one (1) year of experience as a licensed lead abatement worker (by Missouri, EPA or EPA-approved state);

B. At least two (2) years of experience in asbestos abatement work or as a construction manager or superintendent; or

C. At least two (2) years of experience as a manager for environmental hazard remediation projects.

2. The following documents shall be recognized by OLLA as evidence of meeting the requirements listed in subsection (3)(B) of this regulation:

A. Resumes, letters of reference, or documentation of work experience, which includes dates (month and year) of employment, employer's name, address and telephone number, and specific job duties, as evidence of meeting the work experience requirements;

B. Course completion certificates issued by the OLLA- or EPA-accredited training program as evidence of meeting the training requirements; and

C. A copy of the lead abatement worker certificate or identification badge as evidence of having been a licensed lead abatement worker.

(4) Procedure for Issuance or Denial of Lead Abatement Supervisor License.

(A) OLLA will inform the applicant in writing that the application is either approved, incomplete, or denied.

1. If an application is incomplete, the notice will include a list of additional information or documentation required to complete the application.

A. Within thirty (30) calendar days after the issuance date of the notice of incomplete application, the applicant shall submit to OLLA in writing, the information requested in the written notice.

B. Failure to submit the information requested in the written notice shall result in OLLA's denial of the applicant's application for a lead abatement supervisor license.

C. After receipt of the information requested in the written notice, OLLA will inform the applicant in writing that the application is either approved or denied.

2. When an application for a lead abatement supervisor license is denied, the written notice of denial to the applicant will specify the reasons for the denial. OLLA may deny a lead abatement supervisor license for any one or any combination of the following reasons:

A. Failure to satisfy the experience requirements;

B. Type and amount of training;

C. False or misleading statements in the application;

D. Failure to achieve a passing score on the state examination after three (3) attempts;

E. Failure to submit a complete application;

F. History of citations or violations of existing lead abatement regulations or standards;

G. Violations of 29 CFR part 1926.62 or 29 CFR part 1926.59;

H. Fraud or failure to disclose facts relevant to his or her application;

I. Conviction of a felony under any state or federal law or having entered a plea of guilty or *nolo contendere* in a criminal prosecution under the laws of any state or of the United States;

J. Permitting the duplication or use by another of the individual's training certificate;

K. Other information which may affect the applicant's ability to appropriately supervise lead abatement work;

L. Failure to comply with any state or federal law or regulation, including, but not limited to, any part of sections 701.300 through 701.338, RSMo, or any rules promulgated pursuant to these sections; or

M. Final disciplinary action against a licensee by another state, territory, federal agency or country, whether or not voluntarily agreed to by the licensee, including, but not limited to, the denial of licensure, surrender of the license, allowing the license to expire or lapse, or discontinuing or restricting the license while subject to investigation or while actually under investigation by another state, territory, or federal agency or country.

3. If an application is denied, the applicant may reapply to OLLA by submitting a complete lead occupation license application form and another nonrefundable fee of one hundred dollars ($100).

4. If an applicant is aggrieved by a determination to deny licensure, the applicant may appeal OLLA's denial to the Administrative Hearing Commission as provided by section 621.045, RSMo.

(B) Within one hundred and eighty (180) calendar days after the issuance date of application approval, the applicant shall attain a passing score on the state lead abatement supervisor examination.

1. An applicant cannot sit for the state lead abatement supervisor examination more than three (3) times within one hundred and eighty (180) calendar days from the date of issuance of the notice of an approved application.

2. The applicant's failure to attain a passing score on the state lead abatement supervisor exam within the one hundred eighty (180)-day period following the notice of an approved application for a license shall result in OLLA's denial of the applicant's application for license. The individual may reapply to OLLA pursuant to this regulation but only after retaking an OLLA- or EPA-accredited lead abatement supervisor training course.

(C) After the applicant passes the state lead abatement supervisor examination, OLLA will issue a two (2)-year lead abatement supervisor license certificate and photo identification badge.

(D) Restricted licenses may be issued pursuant to an agreement between the applicant or licensee and OLLA.

AUTHORITY: sections 701.301, 701.312 and 701.316, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. Original rule filed Aug. 19, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will have a total annual cost to private entities of $40,077 (adjusted annually for inflation).

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Lois Kollmeyer, Director, Division of Health Standards and Licensure, 920 Wildwood, Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

PRIVATE ENTITY COST

I. RULE NUMBER

Title: 19-DEPARTMENT OF HEALTH

Division: 30-Division of Health Standards & Licensure

Chapter: 70-Lead Abatement and Assessment Licensing, Training Accreditation

Type of Rule Making: New Rule

Rule Number and Name: 19 CSR 30-70.160-Application Process and Requirements for the Licensure of Lead Abatement Supervisors

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimate n the aggregate as to the cost of compliance with the rule by the affected entities.
* 60	Applicants for Licensure	$40,077.00

III. WORKSHEET

$6.00 to complete an application + $100 application fee + $12.95 cost for two passport pictures + $549 training course = $667.95 cost to applicant.

$667.95 (cost to applicant) x 60 (estimated # of applicants) = $40,077.00 annually.

IV. ASSUMPTIONS

Because legislation that went in to effect on August 28, 1998, repealed all similarly related statutes and regulations this fiscal note has been prepared as if there were no previous regulations and related fiscal notes.

* Based upon OLLA data in 1997, 60 applicants applied for initial licensure in this category; 56 applicants applied in 1998. The DOH estimates the number of applicants who will apply for licensure in this category annually is 60.

The DOH anticipates that the cost for licensure for some applicants will be incurred by the employer; however, the number is not known.

Licenses will be issued for a period of two years. The licensure application fee will be $100 for the lead abatement supervisor license.

The cost to complete an application ($6.00) is based on it taking fifteen minutes for an supervisor with an hourly wage of $24 (not including fringe benefits and indirect costs) to complete an application and mail it to the department.

The estimated cost of two passport size pictures is currently $12.95.

The applicant for this license must successfully complete the accredited lead abatement supervisor training course. Based upon OLLA data, the course fee for a accredited lead abatement supervisor training course ranges across the State of Missouri from $460 to $849. Because there was a substantial variety in the fees among 13 training providers, I discarded the high and low fees ($460 and $849) and averaged. The average fee is $549.

There are no fees for the state licensure examination.

If there was more than one method to calculate a cost, the most expensive method was used.

The DOH anticipates that the total aggregated cost per year for licensure will recur each year for the life of the rule. The duration of this rule cannot be estimated. The cost will be adjusted by 5% annually for inflation.

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

PROPOSED RULE

19 CSR 30-70.170 Application Process and Requirements for the Licensure of Project Designers

PURPOSE: This rule provides the requirements to be licensed as a project designer.

(1) Application for a Project Designer License.

(A) An applicant for a project designer license must submit a completed application to the Office of Lead Licensing and Accreditation (OLLA) prior to consideration for license issuance. All applications for licensure must be received by OLLA at least thirty (30) days prior to the date of the lead abatement project design; provided, however, OLLA may waive the time for the filing of applications as particular circumstances justify. Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The application shall include the following:

1. Completed lead occupation license application form provided by OLLA which shall include:

A. The applicant's full legal name, home address, and telephone number;

B. The name, address, and telephone number of the applicant's current employer;

C. The applicant's Social Security number;

D. The county or counties in which the applicant is employed;

E. The location where the applicant would like to receive correspondence regarding his or her application or license;

F. The occupation the applicant wishes to be licensed for;

G. Type of training completed, including name of training provider, certificate, identification number and dates of course completion;

H. Licensure for lead occupations in other states, including name of other states, type of license, license expiration date, and license number, and copies of other states' license/certificate;

I. Certification by the Environmental Protection Agency (EPA), including EPA region number, type of certification, certification expiration date, certification number, and a copy of the EPA certificate;

J. Employment history and/or education which meets the experience and/or education requirements in paragraph (3)(B)1. of this regulation; and

K. Signature of the applicant which certifies that all information in the application is complete and true to the best of the applicant's knowledge and that the applicant will comply with applicable state statutes and regulations;

2. A copy of the OLLA- or EPA-accredited lead abatement supervisor and project designer training program completion certificates, and any required refresher completion certificates;

3. Two (2) recent passport-size color photographs of the applicant's face without a hat or sunglasses (computer generated or photocopied photographs are not acceptable);

4. Documentation pursuant to paragraph (3)(B)2. of this regulation as evidence of meeting the education and/or experience requirements for project designers; and

5. A check or money order made payable to the Missouri Department of Health for the nonrefundable fee of one hundred dollars ($100).

(C) An applicant for a project designer license shall apply to the OLLA within one (1) year of the applicant's successful completion of an OLLA- or EPA-accredited project designer training course, as indicated on the certificate of completion. Applicants failing to apply within one (1) year from the date on the training provider completion certificates shall, before making application for license, successfully complete the four (4)-hour project designer refresher training course accredited by OLLA or the EPA.

(D) Applicants failing to apply within three (3) years of lead abatement supervisor and project designer training and who have not successfully completed annual refresher training, shall successfully complete the OLLA- or EPA-accredited project designer training course again before submitting application for a project designer license.

(2) Application for a Project Designer License Under Reciprocity.

(A) An applicant for a project designer license by reciprocity must submit a completed application to OLLA prior to consideration for license issuance. Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The application shall include the following:

1. Completed lead occupation license application form provided by OLLA which shall include:

A. The applicant's full legal name, home address, and telephone number;

B. The name, address, and telephone number of the applicant's current employer;

C. The applicant's Social Security number;

D. The location where the applicant would like to receive correspondence regarding his or her application or license;

E. The occupation the applicant wishes to be licensed for;

F. Licensure for lead occupations in other states, including name of other states, type of license, license expiration date, and license number, and copies of other states' license/certificate;

G. Certification by the EPA, including EPA region number, type of certification, certification expiration date, certification number, and a copy of the EPA certificate; and

H. Signature of the applicant which certifies that all information in the application is complete and true to the best of the applicant's knowledge and that the applicant will comply with applicable state statutes and regulations;

2. Two (2) recent passport-size color photographs of the applicant's face without a hat or sunglasses (computer generated or photocopied photographs are not acceptable); and

3. A check or money order made payable to the Missouri Department of Health for the nonrefundable fee of one hundred dollars ($100).

(3) Training, Education and Experience Requirements for Project Designer License.

(A) An applicant for a license as a project designer shall complete an OLLA- or EPA-accredited lead abatement supervisor training course and an OLLA- or EPA-accredited project designer training program (see 19 CSR 30-70.370) and pass both of the course examinations with a score of seventy percent (70%) or more.

(B) An applicant for a license as a project designer shall meet minimum education and/or experience requirements for a licensed project designer.

1. The minimum education and/or experience requirements for a licensed project designer include at least one (1) of the following:

A. Bachelor's degree in engineering, architecture, or a related profession, and one (1) year of experience in building construction and design;

B. At least one (1) year of experience as a licensed lead abatement supervisor (by Missouri, EPA or an EPA-approved

state) and at least two (2) years experience in building construction and design; or

C. At least four (4) years of experience in building construction and design.

2. The following documents may be recognized by OLLA as evidence of meeting the requirements listed in paragraph (3)(B)1. of this regulation:

A. Official academic transcripts or diploma, as evidence of meeting the education requirements;

B. Resumes, letters of reference, or documentation of work experience, which includes dates (month and year) of employment, employer's name, address and telephone number, and specific job duties, as evidence of meeting the work experience requirements;

C. Course completion certificates issued by the OLLA- or EPA-accredited training program as evidence of meeting the training requirements; and

D. A copy of the lead abatement supervisor certificate or identification badge as evidence of having been a licensed lead abatement supervisor.

(4) Procedure for Issuance or Denial of Project Designer License.

(A) OLLA will inform the applicant in writing that the application is either approved, incomplete, or denied.

1. If an application is incomplete, the notice shall include a list of additional information or documentation required to complete the application.

A. Within thirty (30) calendar days after the issuance date of the notice of incomplete application, the applicant shall submit to OLLA in writing, the information requested in the written notice.

B. Failure to submit the information requested in the written notice shall result in OLLA's denial of the applicant's application for a project designer license.

C. After receipt of the information requested in the written notice, OLLA will inform the applicant in writing that the application is either approved or denied.

2. When an application for a project designer license is denied, the written notice of denial to the applicant will specify the reasons for the denial. OLLA may deny a project designer license for any one (1) or any combination of the following reasons:

A. Failure to satisfy the education and/or experience requirements;

B. Type and amount of training;

C. False or misleading statements in the application;

D. Failure to submit a complete application;

E. History of citations or violations of existing lead abatement regulations or standards;

F. Violations of 29 CFR part 1926.62 or 29 CFR part 1926.59;

G. Fraud or failure to disclose facts relevant to his or her application;

H. Conviction of a felony under any state or federal law or having entered a plea of guilty or *nolo contendere* in a criminal prosecution under the laws of any state or of the United States;

I. Permitting the duplication or use by another of the individual's training certificate;

J. Other information which may affect the applicant's ability to appropriately perform lead abatement project design;

K. Failure to comply with any state or federal law or regulation, including, but not limited to, any part of sections 701.300 through 701.338, RSMo, or any rules promulgated pursuant to these sections; or

L. Final disciplinary action against a licensee by another state, territory, federal agency or country, whether or not voluntarily agreed to by the licensee, including, but not limited to, the denial of licensure, surrender of the license, allowing the license to expire or lapse, or discontinuing or restricting the license while subject to investigation or while actually under investigation by another state, territory, or federal agency or country.

3. If an application is denied, the applicant may reapply to OLLA by submitting a complete lead occupation license application form and another nonrefundable fee of one hundred dollars ($100).

4. If an applicant is aggrieved by a determination to deny licensure, the applicant may appeal OLLA's denial to the Administrative Hearing Commission as provided by section 621.045, RSMo.

(B) After notice of complete application, OLLA will issue a two (2)-year license certificate and photo identification badge.

(C) Restricted licenses may be issued pursuant to an agreement between the applicant or licensee and OLLA.

AUTHORITY: sections 701.301, 701.312 and 701.316, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 1999. Original rule filed Aug. 19, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will have a total annual cost to private entities of $30,531 (adjusted annually for inflation).

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Lois Kollmeyer, Director, Division of Health Standards and Licensure, 920 Wildwood, Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

PRIVATE ENTITY COST

I. RULE NUMBER

Title: 19-DEPARTMENT OF HEALTH

Division: 30-Division of Health Standards & Licensure

Chapter: 70-Lead Abatement and Assessment Licensing, Training Accreditation

Type of Rule Making: New Rule

Rule Number and Name: 19 CSR 30-70.170-Application Process and Requirements for the Licensure of Project Designers

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimate n the aggregate as to the cost of compliance with the rule by the affected entities.
* 30	Applicants for Licensure	$30,531.00

III. WORKSHEET

$5.75 to complete an application + $100 application fee + $12.95 cost for two passport pictures + $549 lead abatement supervisor training course + $350 project designer training course = $1,017.70 cost to applicant.

$1,017.70 (cost to applicant) x 30 (estimated # of applicants) = $30,531.00 annually.

IV. ASSUMPTIONS

Because legislation that went in to effect on August 28, 1998, repealed all similarly related statutes and regulations this fiscal note has been prepared as if there were no previous regulations and related fiscal notes.

* Based upon the Committee of Legislative Research Data fiscal note, the DOH estimates that 30 applicants a year will make application to OLLA for licensure as a project designer.

The DOH anticipates that the cost for licensure for some applicants will be incurred by the employer; however, the number is not known.

The initial application fee for this licensure classification is $100 for a two year license.

The cost to complete an application ($5.75) is based on it taking fifteen minutes for an worker with an hourly wage of $23 (not including fringe benefits and indirect costs) to complete an application and mail it to the department.

The estimated cost for two passport size pictures is currently $12.95.

The applicant for this license must successfully complete both the accredited lead abatement supervisor training course and the accredited project designer training course. Based upon OLLA data (only one accredited training agency for this course on record), the course fee for an accredited project designer training course is $350; the course fee for the accredited lead abatement supervisor training course ranges across the state from $460 to $849. An average fee of $549 is used.

There are no fees for the state licensure examination.

If there was more than one method to calculate a cost, the most expensive method was used.

It is anticipated the total aggregated cost per year for standard licensure will recur each year for the life of the rule. The duration of this rule cannot be estimated. The cost will be adjusted by 5% annually for inflation.

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

PROPOSED RULE

19 CSR 30-70.180 Application Process and Licensure Renewal Requirements for Lead Abatement Contractors

PURPOSE: This rule provides the requirements to be licensed and renewal requirements as a lead abatement contractor.

(1) Application for a Lead Abatement Contractor License.

(A) An applicant for a lead abatement contractor license must submit a completed application to the Office of Lead Licensing and Accreditation (OLLA) prior to consideration for license issuance. All applications for licensure must be received by OLLA at least thirty (30) days prior to the date of the lead abatement activity; provided, however, OLLA may waive the time for the filing of applications as particular circumstances justify. Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The application shall include:

1. A completed lead abatement contractor form provided by OLLA which shall include:

A. The applicant's name, address and telephone number;

B. If the applicant is a sole proprietorship, the applicant's Social Security number;

C. The county or counties in which the applicant is located;

D. Lead-bearing substance activities the applicant will be conducting (i.e., lead inspection, risk assessments, lead abatement projects, and/or project design);

E. A certification that the lead abatement contractor shall only employ appropriately Missouri licensed individuals to conduct lead-bearing substance activities; and

F. A certification that the lead abatement contractor and its employees shall follow the Missouri Work Practice Standards for Lead-Bearing Substances Activities in 19 CSR 30-70.600 through 19 CSR 30-70.650;

2. If the applicant is a corporation, a copy of its registration with the Missouri secretary of state's office. Every corporation desiring a license as a lead abatement contractor under sections 701.300 through 701.338, RSMo, must be registered and in good standing with the Missouri secretary of state's office;

3. Every corporation desiring a license which conducts business under a fictitious name must have the fictitious name registered with the Missouri secretary of state's office, and must submit a copy of its fictitious name registration with its application to OLLA; and

4. A check or money order made payable to the Missouri Department of Health for the nonrefundable fee of two hundred and fifty dollars ($250); provided, however, that lead abatement contractors who are a state, federally recognized Indian tribe, local government or nonprofit organization shall be exempt from payment of such fee.

(2) Application for a Lead Abatement Contractor License Under Reciprocity.

(A) An applicant for a lead abatement contractor license by reciprocity shall apply to OLLA. Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The application shall include:

1. A completed lead abatement contractor form provided by OLLA which shall include:

A. The applicant's name, address and telephone number;

B. If the applicant is a sole proprietorship, the applicant's social security number;

C. The county or counties in which the applicant is located;

D. Lead-bearing substance activities the applicant will be conducting (i.e., lead inspection, risk assessments, lead abatement projects, and/or project design);

E. A certification that the lead abatement contractor shall only employ appropriately Missouri licensed individuals to conduct lead-bearing substance activities; and

F. A certification that the lead abatement contractor and its employees shall comply with the Work Practice Standards 19 CSR 30-70.600 through 19 CSR 30-70.650; and

2. A check or money order made payable to the Missouri Department of Health for the nonrefundable fee of two hundred and fifty dollars ($250); provided, however, that lead abatement contractors who are a state, federally recognized Indian tribe, local government or nonprofit organization shall be exempt from payment of such fee.

(3) Procedure for Issuance or Denial of a Lead Abatement Contractor License.

(A) OLLA will inform the applicant in writing that the application is either approved, incomplete, or denied.

1. If an application is incomplete, the notice will include a list of additional information or documentation required to complete the application.

A. Within thirty (30) calendar days after the issuance date of the notice of incomplete application, the applicant shall submit to OLLA in writing, the information requested in the written notice.

B. Failure to submit the information requested in the written notice shall result in OLLA's denial of the applicant's application for a lead abatement contractor license.

C. After receipt of the information requested in the written notice, OLLA will inform the applicant in writing that the application is either approved or denied.

2. When an application for a lead abatement contractor license is denied, the written notice of denial to the applicant will specify the reasons for the denial. OLLA may deny a lead abatement contractor license for any one (1) or any combination of the following reasons:

A. History of citations or violations of existing local, state and federal lead abatement or other environmental regulations or standards;

B. Past felony convictions under any state or federal law designed to protect human health or the environment. Any plea of guilty or *nolo contendere* shall be considered a conviction for the purposes of this subsection;

C. False or misleading statements in the application;

D. Failure to submit a complete application;

E. Other information which may affect the applicant's ability to appropriately perform lead-bearing substance activities;

F. Violations of 29 CFR part 1926.62 or 29 CFR part 1926.59;

G. Fraud or failure to disclose facts relevant to the lead abatement contractor application;

H. Failure to comply with any state or federal law or regulation, including, but not limited to, any part of sections 701.300 through 701.338, RSMo, or any rules promulgated pursuant to these sections; or

I. Final disciplinary action against a licensee by another state, territory, federal agency or country, whether or not voluntarily agreed to by the licensee, including, but not limited to, the denial of licensure, surrender of the license, allowing the license

to expire or lapse, or discontinuing or restricting the license while subject to investigation or while actually under investigation by another state, territory, or federal agency or country.

3. When an application is denied, the applicant may reapply to OLLA by submitting a complete lead abatement contractor application form along with the applicable fee.

4. If an applicant is aggrieved by a determination to deny licensure, the applicant may appeal OLLA's denial to the Administrative Hearing Commission as provided by section 621.045, RSMo.

(B) After notice of complete application, OLLA will issue a two (2)-year lead abatement contractor license.

(C) Restricted licenses may be issued pursuant to an agreement between the applicant or licensee and OLLA.

(4) Change of Ownership. If a licensed lead abatement contractor changes ownership, the new owner shall notify OLLA in writing no later than thirty (30) calendar days prior to the change of ownership becoming effective. The notification shall include a new lead abatement contractor license application, the appropriate fee, and the date that the change of ownership will become effective. The new lead abatement contractor application shall be processed in the same manner pursuant to 19 CSR 30-70.180(3). The current lead abatement contractor's license shall expire on the effective date set forth in the notification of the change of ownership.

(5) Renewal Application for Lead Abatement Contractor License. An application for lead abatement contractor license renewal shall be mailed at least sixty (60) days prior to the expiration date on the license accompanied by a nonrefundable renewal fee of two hundred and fifty dollars ($250) (provided, however, that lead abatement contractors who are a state, federally recognized Indian tribe, local government or nonprofit organization shall be exempt from payment of such fee) with a completed application form to the Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102. If the licensee fails to apply at least sixty (60) days prior to the expiration date on the license, OLLA cannot guarantee that the license will be renewed before the end of the licensing period.

AUTHORITY: sections 701.301, 701.312 and 701.316, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. Original rule filed Aug. 19, 1999.

PUBLIC ENTITY COST: This proposed rule will have a total annual cost to state agencies or political subdivisions of $21,320 (adjusted annually for inflation).

PRIVATE ENTITY COST: This proposed rule will have a total annual cost to private entities of $120,120 (adjusted annually for inflation).

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Lois Kollmeyer, Director, Division of Health Standards and Licensure, 920 Wildwood, Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

FISCAL NOTE
PUBLIC ENTITY COST

I. RULE NUMBER

Title: 19-DEPARTMENT OF HEALTH

Division: 30-Division of Health Standards & Licensure

Chapter: 70-Lead Abatement and Assessment Licensing, Training Accreditation

Type of Rule Making: New Rule

Rule Number and Name: 19 CSR 30-70.180-Application Process and Requirements for the Licensure of Lead Abatement Contractors

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
INITIAL THREE YEARS: (82) State and County Agencies	$21,320.00
RENEWAL OF LICENSE AT END OF TWO YEARS: (72) State and County Agencies	$18,720.00

III. WORKSHEET

YEAR ONE INITIAL LICENSURE

$10.00 to complete an application + $250 application fee = $260.00 cost to applicant.

$260.00 (cost to applicant) x 72 (estimated # of applicants per year) = $18,720.00 annually.

YEAR TWO INITIAL LICENSURE

$10.00 to complete an application + $250 application fee = $260.00 cost to applicant.

$260.00 (cost to applicant) x 5 (estimated # of initial applicants) = $1,300.00 annually.

YEAR THREE INITIAL LICENSURE

$10.00 to complete an application + $250 application fee = $260.00 cost to applicant.

$260.00 (cost to applicant) x 5 (estimated # of initial applicants) = $1,300.00 annually.

RENEWAL OF LICENSE AFTER TWO YEARS

$10.00 to complete an application + $250 application fee = $260.00 cost to applicant.

$260.00 (cost to applicant) x 72 (estimated # of licensure renewal applicants) = $18,720.00 annually.

IV. ASSUMPTIONS

The DOH estimates there is not a significant increase in the fiscal requirements for the DOH Lead Licensing and Accreditation program (OLLA), as the changes will be implemented with current staff of 4 FTE. These staff are currently funded with a combination of EPA federal grant funds and licensing fees deposited in the Missouri Public Health Services Fund. Current fees collected and any new fees will be deposited into the General Revenue Fund instead of the Missouri Public Health Services Fund.

Because legislation that went in to effect on August 28, 1998, repealed all similarly related statutes and regulations this fiscal note has been prepared as if there were no previous regulations and related fiscal notes.

The DOH estimates that during the first year this licensure category becomes available 72 public entities will make initial application for this new license. The DOH projects that thereafter 5 applicants will make initial application for this license annually.

This license will be issued for a period of two years. Under the proposed new rule, the initial application fee for a lead abatement contractor license is $250.

The cost to complete an application ($10.00) is based on it taking fifteen minutes for an contractor with an hourly wage of $40 (not including fringe benefits and indirect costs) to complete an application and mail it to the department.

Since this is a new licensure category, the estimated cost for this new license was projected over a period of three years in order to address the licensure renewal process which is included in this section of the proposed new rule.

The application renewal fee is $250. The DOH estimates that 72 applicants will apply for renewal of this license during the third year it is in effect.

If there was more than one method to calculate a cost, the most expensive method was used.

It is anticipated the total aggregated cost per year for standard licensure will recur each year for the life of the rule. The duration of this rule cannot be estimated. The cost will be adjusted by 5% annually for inflation.

PRIVATE ENTITY COST

I. RULE NUMBER

Title: 19-DEPARTMENT OF HEALTH

Division: 30-Division of Health Standards & Licensure

Chapter: 70-Lead Abatement and Assessment Licensing, Training Accreditation

Type of Rule Making: New Rule

Rule Number and Name: 19 CSR 30-70.180-Application Process and Requirements for the Licensure of Lead Abatement Contractors

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimate n the aggregate as to the cost of compliance with the rule by the affected entities.
INITIAL THREE YEARS: 462	Applicants for Licensure	$120,120.00
RENEWAL OF LICENSE AT END OF TWO YEARS: 419		$108,940.00

III. WORKSHEET

YEAR ONE INITIAL LICENSURE

$10.00 to complete an application + $250 application fee = $260.00 cost to applicant.

$260.00 (cost to applicant) x 419 (estimated # of initial applicants) = $108,940.00 annually.

YEAR TWO INITIAL LICENSURE

$10.00 to complete an application + $250 application fee = $260.00 cost to applicant.

$260.00 (cost to applicant) x 21 (estimated # of initial applicants) = $5,460.00 annually.

YEAR THREE INITIAL LICENSURE

$10.00 to complete an application + $250 application fee = $260.00 cost to applicant.

$260.00 (cost to applicant) x 22 (estimated # of initial applicants) = $5,720.00 annually.

RENEWAL OF LICENSE AFTER TWO YEARS

$10.00 to complete an application + $250 application fee = $260.00 cost to applicant.

$260.00 (cost to applicant) x 419 (estimated # of licensure renewal applicants) = $108,940.00 annually.

IV. ASSUMPTIONS

Because legislation that went in to effect on August 28, 1998, repealed all similarly related statutes and regulations this fiscal note has been prepared as if there were no previous regulations and related fiscal notes.

According to OLLA data, currently there are 838 private entities licensed as lead abatement supervisor/contractors. The DOH estimates that during the first year this license becomes available under the proposed new rule fifty percent (419) of these licensees will apply for the lead abatement contractor license. During both the second and third years, there will be a 5% increase in the number of applicants for initial licensure (21 initial applicants) annually.

The initial licensure fee for a lead abatement contractor license is $250 and it will be issued for a period of two years.

The cost to complete an application ($10.00) is based on it taking fifteen minutes for an contractor with an hourly wage of $40 (not including fringe benefits and indirect costs) to complete an application and mail it to the department.

Because this is a new licensure category, the estimated cost of the license was projected over a period of three years.

The fee to renew this license is also $250. The DOH estimates that during the third year this license is available under the proposed new rule 419 applicants will apply for renewal of their license.

All costs are based on approximations and estimations by the department.

If there was more than one method to calculate a cost, the most expensive method was used.

It is anticipated the total aggregated cost per year for standard licensure will recur each year for the life of the rule. The duration of this rule cannot be estimated. The cost will be adjusted by 5% annually for inflation.

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

PROPOSED RULE

19 CSR 30-70.190 Renewal of Lead Occupation Licenses

PURPOSE: This rule provides the requirements for renewal licensure of lead inspector, risk assessor, lead abatement worker, lead abatement supervisor and project designer.

(1) Renewal Application for Lead Inspector, Risk Assessor, Lead Abatement Worker, Lead Abatement Supervisor and Project Designer Licenses.

(A) A completed application for renewal of license, including required supporting documentation, shall be submitted to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570, at least sixty (60) days prior to the license expiration date indicated on the license. Failure of the licensee to submit an application at least sixty (60) days prior to the current license's expiration date may result in the license not being renewed before the current license expires.

(B) The licensee applying for license renewal shall complete the eight (8)-hour Office of Lead Licensing Accreditation (OLLA)- or Environmental Protection Agency (EPA)-accredited refresher training course for the appropriate occupation.

(C) The renewal application shall include the following:

1. A completed lead occupation renewal license application form provided by OLLA which shall include:

A. The licensee's full legal name, home address, and telephone number;

B. The name, address, and telephone number of the licensee's current employer;

C. The licensee's Social Security number;

D. The county or counties in which the licensee is employed;

E. The location where the licensee would like to receive correspondence regarding his or her renewal application or license;

F. The license occupation the licensee wishes to have renewed;

G. Type of refresher training completed, including name of training provider, certificate identification number and dates of course completion; and

H. Signature of the licensee which certifies that all information in the application is complete and true to the best of the licensee's knowledge and that the licensee will comply with applicable state statutes and regulations;

2. A copy of the OLLA- or EPA-accredited refresher training course completion certificate for the appropriate occupation;

3. Two (2) recent passport-size color photographs of the licensee's face without a hat or sunglasses (computer generated or photocopied photographs are not acceptable); and

4. A check or money order made payable to the Missouri Department of Health for the nonrefundable fee of fifty dollars ($50).

(2) Procedure for Issuance or Denial of a Renewal License.

(A) OLLA will inform the licensee in writing that the renewal application is either approved, incomplete or denied.

1. If a renewal application is incomplete, the notice will include a list of additional information or documentation required to complete the renewal application.

A. Within thirty (30) calendar days after the issuance date of the notice of incomplete application, the licensee shall submit to OLLA the information requested in the written notice.

B. Failure to submit the information requested in the written notice to OLLA in writing shall result in OLLA's denial of the licensee's renewal application for the appropriate occupation.

C. After receipt of the information requested in the written notice, OLLA will inform the licensee in writing that the application is either approved or denied.

2. When a renewal application for a lead license is denied, the written notice of denial to the applicant will specify the reasons for the denial. OLLA may deny a renewal license for any one (1) or any combination of the following reasons:

A. Type and amount of training;

B. False ormisleading statements in the application;

C. Failure to submit a complete application;

D. History of citations or violations of existing lead abatement regulations or standards;

E. Violations of 29 CFR part 1926.62 or 29 CFR part 1926.59;

F. Fraud or failure to disclose facts relevant to his or her application;

G. Conviction of a felony under any state or federal law or having entered a plea of guilty or *nolo contendere* in a criminal prosecution under the laws of any state or of the United States;

H. Permitting the duplication or use by another of the individual's training certificate;

I. Other information which may affect the licensee's ability to appropriately perform lead-bearing substance activities;

J. Failure to comply with any state or federal law or regulation, including, but not limited to, any part of sections 701.300 through 701.338, RSMo, or any rules promulgated pursuant to these sections; or

K. Final disciplinary action against a licensee by another state, territory, federal agency or country, whether or not voluntarily agreed to by the licensee, including, but not limited to, the denial of licensure, surrender of the license, allowing the license to expire or lapse, or discontinuing or restricting the license while subject to investigation or while actually under investigation by another state, territory, or federal agency or country.

3. If a renewal application is denied, the applicant may reapply to OLLA by submitting a completed lead occupation license renewal application form and another nonrefundable renewal fee of fifty dollars ($50).

4. If a licensee is aggrieved by a determination to deny renewal licensure, the applicant may appeal OLLA's denial to the Administrative Hearing Commission as provided by section 621.045, RSMo.

(B) After notice of complete renewal application, OLLA will issue a two (2)-year license certificate and photo identification badge.

(C) Restricted licenses may be issued pursuant to an agreement between the applicant or licensee and OLLA.

AUTHORITY: sections 701.301, 701.312 and 701.316, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. Original rule filed Aug. 19, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will have a total annual cost to private entities of $637,361 (adjusted annually for inflation).

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Lois Kollmeyer, Director, Division of Health Standards and Licensure, 920 Wildwood, Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

PRIVATE ENTITY COST

I. RULE NUMBER

Title: 19-DEPARTMENT OF HEALTH

Division: 30-Division of Health Standards & Licensure

Chapter: 70-Lead Abatement and Assessment Licensing, Training Accreditation

Type of Rule Making: New Rule

Rule Number and Name: 19 CSR 30-70.190-Renewal of Lead Occupation Licenses

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimate n the aggregate as to the cost of compliance with the rule by the affected entities.
278	Lead Inspectors	$ 81,649
443	Risk Assessors	$229,784
805	Lead Abatement Workers	$236,429
278	Lead Abatement Supervisors	$ 81,718
15	Project Designers	$ 7,781

III. WORKSHEET

Lead Inspector

$5.75 to complete an application + $50 application fee + $12.95 cost for two passport pictures + $225 refresher training course = $293.70 cost to applicant.

YEAR ONE

$293.70 (cost to applicant) x 170 (estimated # of applicants for renewal) = $49,929.00.

YEAR TWO

$293.70 (cost to applicant) x 108 (estimated # of applicants for renewal) = $31,720.00.

Total bi-annual licensure fees, thereafter = $81,649

Risk Assessor

$5.75 to complete an application + $50 application fee + $12.95 cost for two passport pictures + $225 lead inspector and $225 risk assessor refresher training courses = $518.70 cost to applicant.

YEAR ONE

*$518.70 (cost to applicant) x -0- licensed risk assessors + 170 temporary risk assessors (estimated # of applicants for renewal) = $88,179.

YEAR TWO

* $518.70 (cost to applicant) x 165 licensed risk assessors + 108 temporary risk assessors (estimated # of applicants for renewal) = $141,605.00.

* Includes licensed temporary risk assessors who renew as risk assessors. Thereafter, these licensees will renew every two years as risk assessors.

Total bi-annual licensure fees, thereafter = $229,784

Lead Abatement Worker

$5.75 to complete an application + $50 application fee + $12.95 cost for two passport pictures + $225 refresher training course = $293.70 cost to applicant.

YEAR ONE

$293.70 (cost to applicant) x 378 (estimated # of applicants for renewal) = $111,019.00.

YEAR TWO

$293.70 (cost to applicant) x 427 (estimated # of applicants for renewal) = $125,410.00.

Total bi-annual licensure fees, thereafter = $236,429

Lead Abatement Supervisor

$6.00 to complete an application + $50 application fee + $12.95 cost for two passport pictures + $225.00 refresher training course = $293.95 cost to applicant.

YEAR ONE

$293.95 (cost to applicant) x 112 (estimated # of applicants for renewal) = $32,922.00.

YEAR TWO

$293.95 (cost to applicant) x 166 (estimated # of applicants for renewal) = $48,796.00.

Total bi-annual licensure fees, thereafter = $81,718

Project Designer

$5.75 to complete an application + $50 application fee + $12.95 cost for two passport pictures + $225.00 project designer and $225 lead abatement supervisor refresher training courses = $518.70 cost to applicant.

YEAR ONE

$518.70 (cost to applicant) x -0- (estimated # of applicants for renewal) = $00.00.

YEAR TWO

$518.70 (cost to applicant) x 15 (estimated # of applicants for renewal) = $7,781.00.

Total bi-annual licensure fees thereafter, = $7,781

IV. ASSUMPTIONS

Because legislation that went in to effect on August 28, 1998, repealed all similarly related statutes and regulations this fiscal note has been prepared as if there were no previous regulations and related fiscal notes.

Under the proposed new rule, provisions for the renewal of the Lead Abatement Contractor license is addressed in section 19 CSR 30-70.180 of the fiscal note. Therefore, this licensure renewal will not be addressed in this section

Lead occupational licenses will be renewed every two years. The licensure renewal fee is $50.

According to OLLA data, in 1997 there were 163 applicants for initial lead inspector licenses; in addition, 7 licensed lead inspectors submitted application for renewal, for a total of 170 licenses issued. In 1998 there were 61 initial lead inspector licensure applications and 47 lead inspector licensure renewals, for a total of 108 licenses issued.

The DOH anticipates that under the new rules the lead inspection process will change significantly to where it will be considered a risk assessment process rather than a lead inspection. Therefore, the DOH estimates the number of applicants for a risk assessor license will be reflective of the current number of workers who make initial application to become licensed lead inspectors. The DOH estimates that during the first year (1999) 170 applicants who are licensed as a lead inspector and who hold a temporary risk assessor license will apply for a risk assessor license; during the second year (2000) 108 will apply. The DOH estimates that during the first year the risk assessor license is available, with the exception of licensees holding the temporary risk assessor license, there will be no renewals submitted for a risk assessor license. During the second year 165 licensed risk assessors will submit application for renewal.

Based upon Committee on Legislative Research Oversight Division's fiscal note data, the DOH estimates that 15 licensed project designers will submit application for renewal after their second year of licensure.

According to OLLA data, in 1997 there were 318 applicants for initial lead abatement workers licenses; in addition, 60 workers submitted application for renewal, for a total of 378 licenses issued. In 1998 there were 258 initial licensure applications and 169 licensure renewals, for a total of 427 licenses issued. The DOH estimates that during the first year (1999) under the proposed new rule 378 applicants will submit application for renewal of their license and during the second year (2000) 427 will renew their license.

According to OLLA data, in 1997 there were 60 applicants for initial lead abatement supervisor licenses; in addition, 52 supervisors submitted application for renewal, for a total of 112 licenses issued. In 1998 there were 56 initial licensure applications and 110 licensure renewals, for a total of 166 licenses issued. The DOH estimates that during the first year (1999) under the proposed new rule 112 applicants will submit application for licensure renewal and during the second year 166 will submit application.

The cost to complete an application ($5.75) for the lead inspector, risk assessor, lead abatement worker and project designer is based on it taking fifteen minutes for an worker with an hourly wage of $23 (not including fringe benefits and indirect costs) to complete an application and mail it to the department.

The cost to complete an application ($6.00) for the lead abatement supervisor is based on it taking fifteen minutes for an supervisor with an hourly wage of $24 (not including fringe benefits and indirect costs) to complete an application and mail it to the department.

The cost of two passport size pictures is currently $12.95.

As a prerequisite for licensure renewal, licensees must successfully complete a refresher training course. Based upon OLLA data, the refresher course fee for the lead inspector ranges across the state from $135 to $225; the refresher course fee for the risk assessor ranges from $135 to $225; the refresher course fee for the lead abatement worker ranges from $100 to $225; the refresher course fee for the lead abatement supervisor ranges from $100 to $225; and, the refresher course fee for the project designer is $225 (only one refresher course in the State of Missouri is being offered for this category of licensure).

If there was more than one method to calculate a cost, the most expensive method was used.

It is anticipated the total aggregated cost per year for standard licensure will recur each year for the life of the rule. The duration of this rule cannot be estimated. The cost will be adjusted by 5% annually for inflation.

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

PROPOSED RULE

19 CSR 30-70.195 Application Process and Requirements for Reapplication after License Expiration

PURPOSE: This rule provides the requirements for reapplication of a lead inspector, risk assessor, lead abatement worker, lead abatement supervisor and project designer after a license has expired.

(1) Unless sooner renewed or revoked, a license shall expire within two (2) years from its effective date indicated on the current license. If a licensee allows the license to expire before renewal, the licensee must reapply to the Office of Lead Licensing and Accreditation (OLLA). Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(2) The application shall include the following:

(A) A completed lead occupation license application form provided by OLLA which shall include:

1. The applicant's full legal name, home address, and telephone number;
2. The name, address, and telephone number of the applicant's current employer;
3. The applicant's Social Security number;
4. The county or counties in which the applicant is employed;
5. The location where the applicant would like to receive correspondence regarding his or her application or license;
6. The license occupation the applicant wishes to be licensed for;
7. Type of training completed, including name of training provider, certificate identification number and dates of course completion;
8. Licensure for lead occupations in other states including, name of other states, type of license, license expiration date, and license number, and copies of other states' license/certificate;
9. Certification by the Environmental Protection Agency (EPA), including EPA region number, type of certification, certification expiration date, certification number, and a copy of the EPA certificate; and
10. Signature of the applicant which certifies that all information in the application is complete and true to the best of the applicant's knowledge and that the applicant will comply with applicable state statutes and regulations;

(B) A copy of the OLLA- or EPA-accredited refresher (and/or initial, if applicable—see 19 CSR 30-70.195(4)) training course completion certificate for the appropriate occupation;

(C) Two (2) recent passport-size color photographs of the applicant's face without a hat or sunglasses (computer generated or photocopied photographs are not acceptable); and

(D) A check or money order made payable to the Missouri Department of Health for the nonrefundable fee of one hundred dollars ($100).

(3) An applicant reapplying for a lead occupation license within one (1) year from the license expiration date shall complete the appropriate eight (8)-hour refresher training course accredited by OLLA or the EPA.

(4) Applicants failing to reapply within three (3) years of the license expiration date and who have not successfully completed annual refresher training, shall successfully complete the appropriate OLLA- or EPA-accredited initial training course again.

(5) Any licensed lead inspector, risk assessor, or lead abatement supervisor, that allows his or her license to expire before renewal shall retake the state lead examination for the appropriate occupation.

(6) OLLA will use the procedure for issuance or denial of a license pursuant to 19 CSR 30-70.130(4), 19 CSR 30-70.140(3), 19 CSR 30-70.150(4), 19 CSR 30-70.160(4), 19 CSR 30-70.170(4) as applicable.

AUTHORITY: sections 701.301, 701.312 and 701.316, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. Original rule filed Aug. 19, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will have a total annual cost to private entities of $3,837.50 (adjusted annually for inflation).

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Lois Kollmeyer, Director, Division of Health Standards and Licensure, 920 Wildwood, Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

PRIVATE ENTITY COST

I. RULE NUMBER

Title: 19-DEPARTMENT OF HEALTH

Division: 30-Division of Health Standards & Licensure

Chapter: 70-Lead Abatement and Assessment Licensing, Training Accreditation

Type of Rule Making: New Rule

Rule Number and Name: 19 CSR 30-70.195-Application Process and Requirements for Re-application after License Expiration.

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimate n the aggregate as to the cost of compliance with the rule by the affected entities.
2	Lead Inspectors	$ 587.40
2	Risk Assessors	$1037.40
2	Lead Abatement Workers	$587.40
2	Lead Abatement Supervisors	$587.90
2	Project Designers	$1037.40

III. WORKSHEET

Lead Inspector

$5.75 to complete an application + $50 application fee + $12.95 cost for two passport pictures + $225 refresher training course = $293.70 cost to applicant.

2-applicants x $293.70 = $587.40 annually.

Risk Assessor

$5.75 to complete an application + $50 application fee + $12.95 cost for two passport pictures + $225 lead inspector and $225 risk assessor refresher training courses = $518.70 cost to applicant.

2-applicants x $518.70 = $1037.40 annually.

Lead Abatement Worker

$5.75 to complete an application + $50 application fee + $12.95 cost for two passport pictures + $225 refresher training course = $293.70 cost to applicant.

2-applicants x $293.70 = $587.40 annually.

Lead Abatement Supervisor

$6.00 to complete an application + $50 application fee + $12.95 cost for two passport pictures + $225.00 refresher training course = $293.95 cost to applicant.

2-applicants x $293.95 = $587.90 annually.

Project Designer

$5.75 to complete an application + $50 application fee + $12.95 cost for two passport pictures + $225.00 project designer and $225 lead abatement supervisor refresher training courses = $518.70 cost to applicant.

2-applicants x $518.70 = $1037.40 annually.

IV. ASSUMPTIONS

Because legislation that went in to effect on August 28, 1998, repealed all similarly related statutes and regulations this fiscal note has been prepared as if there were no previous regulations and related fiscal notes.

For all lead abatement licensure categories addressed in this section of the proposed rule, the application fee for re-licensure after a license has expired is $100.

The Department of Health estimates that two (2) licensees in each category of licensure will allow their license to expire, but will reapply for licensure within one (1) year from the licensure expiration date. The Department of Health estimates that zero (0) licensees will allow their license to expire for over a period of one (1) year from the licensure expiration date.

The cost to complete an application ($5.75) for the lead inspector, risk assessor, lead abatement worker and project designer is based on it taking fifteen minutes for an worker with an hourly wage of $23 (not including fringe benefits and indirect costs) to complete an application and mail it to the department.

The cost to complete an application ($6.00) for the lead abatement supervisor is based on it taking fifteen minutes for an supervisor with an hourly wage of $24 (not including fringe benefits and indirect costs) to complete an application and mail it to the department.

The estimated charge for two passport size pictures is currently $12.95.

Based upon OLLA data, the refresher course fee for the lead inspector ranges across the state from $135 to $225; the refresher course fee for the risk assessor ranges from $135 to $225; the refresher course fee for the lead abatement worker ranges from $100 to $225; the refresher course fee for the lead abatement supervisor ranges from $100 to $225; and, the refresher course fee for the project designer is $225.

If there was more than one method to calculate a cost, the most expensive method was used.

It is anticipated the total aggregated cost per year for standard licensure will recur each year for the life of the rule. The duration of this rule cannot be estimated. The cost will be adjusted by 5% annually for inflation.

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

PROPOSED RULE

19 CSR 30-70.200 Application Process and Requirements for the Licensure of Risk Assessors Who Possessed a Valid Missouri Lead Inspector License on August 28, 1998

PURPOSE: This rule provides the requirements for a temporary risk assessor license.

(1) Only individuals possessing a valid Missouri lead inspector license on August 28, 1998, may apply for a risk assessor license pursuant to this rule. All other risk assessor applicants must apply pursuant to 19 CSR 30-70.140. No person may apply for a risk assessor license pursuant to this rule after December 1, 2000.

(2) Completed applications shall be mailed to the Missouri Department of Health, P.O. Box 570, Jefferson City, MO 65102-0570.

(3) The application shall include the following:

(A) A completed lead occupation license application form provided by the Office of Lead Licensing and Accreditation (OLLA) which shall include:

1. The applicant's full legal name, home address, and telephone number;
2. The name, address, and telephone number of the applicant's current employer;
3. The applicant's Social Security number;
4. The county or counties in which the applicant is employed;
5. The location where the applicant would like to receive correspondence regarding his or her application or license;
6. Name of training provider, certificate identification number and dates of course completion; and
7. Signature of the applicant which certifies that all information in the application is complete and true to the best of the applicant's knowledge and that the applicant will comply with applicable state statutes and regulations;

(B) A copy of the OLLA- or Environmental Protection Agency (EPA)-accredited risk assessor refresher training course completion certificate; and

(C) Two (2) recent passport-size color photographs of the applicant's face without a hat or sunglasses (computer generated or photocopied photographs are not acceptable).

(4) An applicant for a temporary risk assessor license shall apply to OLLA within one (1) year from the date on the completion certificate from an OLLA- or EPA-accredited risk assessor refresher training provider. Applicants failing to apply within these restrictions shall apply pursuant to 19 CSR 30-70.140.

(5) Training Requirements for a Temporary Risk Assessor License. An applicant for a license as a risk assessor shall complete an OLLA- or EPA-accredited risk assessor refresher training course (see 19 CSR 30-70.380) and pass the course examination with a score of seventy percent (70%) or more.

(6) Procedure for Issuance or Denial of a Temporary Risk Assessor License.

(A) OLLA will inform the applicant in writing that the application is either approved, incomplete, or denied.

1. If an application is incomplete, the notice will include a list of additional information or documentation required to complete the application.

A. Within thirty (30) calendar days after the issuance date of the notice of incomplete application, the applicant shall submit to OLLA in writing the information requested in the written notice.

B. Failure to submit the information requested in the written notice within thirty (30) calendar days shall result in OLLA's denial of the applicant's application for a risk assessor license.

C. After receipt of the information requested in the written notice, OLLA will inform the applicant in writing that the application is either approved or denied.

2. When an application for a risk assessor license is denied, the written notice of denial to the applicant will specify the reasons for the denial. OLLA may deny a temporary risk assessor license for any (1) one or any combination of the following reasons:

A. Type and amount of training;

B. False or misleading statements in the application;

C. Failure to pass the state examination after two (2) attempts;

D. Failure to submit a complete application;

E. History of citations or violations of existing lead abatement regulations or standards;

F. Violations of 29 CFR part 1926.62 or 29 CFR part 1926.59;

G. Fraud or failure to disclose facts relevant to his or her application;

H. Conviction of a felony under any state or federal law or having entered a plea of guilty or *nolo contendere* in a criminal prosecution under the laws of any state or of the United States;

I. Permitting the duplication or use by another of the individual's training certificate;

J. Other information which may affect the applicant's ability to appropriately perform lead-bearing substance activities;

K. Failure to comply with any state or federal law or regulation, including, but not limited to, any part of sections 701.300 through 701.338, RSMo, or any rules promulgated pursuant to these sections; or

L. Final disciplinary action against a licensee by another state, territory, federal agency or country, whether or not voluntarily agreed to by the licensee, including, but not limited to, the denial of licensure, surrender of the license, allowing the license to expire or lapse, or discontinuing or restricting the license while subject to investigation or while actually under investigation by another state, territory, or federal agency or country.

3. If an application is denied, the applicant may reapply to OLLA for a risk assessor license, by submitting a complete lead occupation license application form pursuant to 19 CSR 30-70.140.

4. If an applicant is aggrieved by a determination to deny licensure, the applicant may appeal OLLA's denial to the Administrative Hearing Commission as provided by section 621.045, RSMo.

(B) Within thirty (30) days after the issuance date of application approval, the applicant shall attain a passing score on the state risk assessor examination.

1. An applicant cannot sit for the state examination more than twice within thirty (30) calendar days after the issuance date of the notice of an approved application.

2. If an applicant fails to pass the state examination on the second attempt, the applicant's application for a risk assessor is considered denied. The individual may reapply to OLLA pursuant to 19 CSR 30-70.140 but only after retaking the OLLA- or EPA-accredited risk assessor training course.

(C) After the applicant passes the state risk assessor examination, OLLA will issue a risk assessor license certificate and photo identification badge. This license will expire on the same date as the lead inspector license used to fulfill the requirement of section (1) of this regulation.

AUTHORITY: sections 701.301 and 701.312, RSMo Supp. 1998. Emergency rule file Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. Original rule filed Aug. 19, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will have a total annual cost to private entities of $67,748.60 (adjusted annually for inflation).

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Lois Kollmeyer, Director, Division of Health Standards and Licensure, 920 Wildwood, Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

PRIVATE ENTITY COST

I. RULE NUMBER

Title: 19-DEPARTMENT OF HEALTH

Division: 30-Division of Health Standards & Licensure

Chapter: 70-Lead Abatement and Assessment Licensing, Training Accreditation

Type of Rule Making: New Rule

Rule Number and Name: 19 CSR 30-70.200-Application Process and Requirements for the Licensure of Risk Assessors who possessed a valid Missouri Lead Inspector license on August 28, 1998

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimate n the aggregate as to the cost of compliance with the rule by the affected entities.
278	Risk Assessors Who Hold a Temporary License	$67,748.60

III. WORKSHEET

$5.75-cost to complete an application. $12.95-cost for two passport pictures $225-refresher training course fee = $243.70 cost to applicant.

YEAR ONE

$243.70 (cost to applicant) x 170 (estimated # of applicants) = $41,429.00.

YEAR TWO

$243.70 (cost to applicant) x 108 (estimated # of applicants) = $26,319.60.

Total bi-annual licensure fees, thereafter = $67,748.60

IV. ASSUMPTIONS

Because legislation that went in to effect on August 28, 1998, repealed all similarly related statutes and regulations this fiscal note has been prepared as if there were no previous regulations and related fiscal notes.

The Department of Health anticipates that under the proposed new rule the work practice standards will significantly change to where a risk assessment will occur more frequently than a lead inspection process. Therefore, the DOH estimates that during either the first or the second year the temporary license becomes

available the majority of licensed lead inspectors will apply for and qualify for this temporary license. The DOH does not know if these applicants will also maintain their lead inspector license.

According to OLLA data, at the time the statute went into effect (1998), there were 278 licensed lead inspectors. The DOH estimates that 170 of these licensed lead inspectors will apply for the temporary risk assessor license during the first year it becomes available and 108 will apply the second year.

There is no licensure fee. The cost to complete an application ($5.75) is based on it taking fifteen minutes for an worker with an hourly wage of $23 (not including fringe benefits and indirect costs) to complete an application and mail it to the department. The estimated cost of two passport pictures is $12.95. Based upon OLLA data, the average course fee for the accredited risk assessor refresher course is $225.

If there was more than one method to calculate a cost, the most expensive method was used.

It is anticipated the total aggregated cost per year for standard licensure will recur each year for the life of the rule. The duration of this rule cannot be estimated. The cost will be adjusted by 5% annually for inflation.

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

PROPOSED RULE

19 CSR 30-70.310 Definitions and Abbreviations for the Accreditation of Training Providers

PURPOSE: This rule provides definitions and abbreviations to be used in the interpretation and enforcement of 19 CSR 30-70.310 through 19 CSR 30-70.400.

(1) Accreditation is approval by the Office of Lead Licensing and Accreditation (OLLA) of a training provider for a training course to train individuals for lead-bearing substance activities.

(2) Audit is the monitoring by OLLA of a training provider for a training course to ensure compliance with state statutes and regulations.

(3) Classroom training is training devoted to lecture, learning activities, small group activities, demonstrations, and/or evaluations.

(4) Course agenda is an outline of the key topics to be covered during a training course, including the time allotted to teach each topic.

(5) Course exam blueprint is written documentation identifying the proportion of course exam questions devoted to each major topic in the course curriculum.

(6) EPA is the United States Environmental Protection Agency.

(7) Guest instructor is an individual designated by the training manager to provide instruction specific to the lecture, hands-on training, or work practice components of a course.

(8) Hands-on skills assessment is an evaluation of the effectiveness of the hands-on training which shall test the ability of the trainees to demonstrate satisfactory performance of work practices and procedures as well as any other skills demonstrated in the course.

(9) Hands-on training is training which involves the actual practice of a procedure and/or use of equipment.

(10) Large-scale abatement project is a lead abatement project consisting of ten (10) or more dwellings.

(11) Occupation is one of the specific types or categories of lead-bearing substance activities identified in these regulations for which individuals may receive training from accredited training providers, including, but not limited to, lead inspector, risk assessor, lead abatement worker, lead abatement supervisor and/or project designer.

(12) OLLA is the Missouri Department of Health Office of Lead Licensing and Accreditation.

(13) Oral exam is equivalent to the written exam in content, but is read to the student by the principal instructor. The student is required to provide his or her answers to the exam in writing.

(14) Principal instructor is any qualified individual designated by the training manager that has the primary responsibility for organizing and teaching a particular course.

(15) Reaccreditation is the renewal of accreditation of a training provider for a training course subsequent to initial accreditation expiration.

(16) Reciprocity is an agreement between OLLA and other states who have similar accreditation provisions.

(17) Refresher course is the course of instruction established by these regulations which must be periodically completed to obtain or maintain an individual's licensure in a single occupation.

(18) Training course is the course of instruction established by these regulations to prepare an individual for licensure in a single occupation.

(19) Training provider is any person or entity providing training courses for the purpose of state licensure or licensure renewal in an occupation.

(20) Training curriculum is an established set of course topics for instruction by an accredited training provider for a particular occupation designed to provide specialized knowledge and skills.

(21) Training hour is at least fifty (50) minutes of actual instruction, including but not limited to time devoted to lecture, learning activities, small group activities, demonstrations, evaluations, and/or hands-on training. A training hour shall not include a break.

(22) Training manager is any individual responsible for administering the training courses and monitoring the performance of principal instructors and guest instructors.

AUTHORITY: sections 701.301 and 701.314, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. Original rule filed Aug. 19, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Lois Kollmeyer, Director, Division of Health Standards and Licensure, 920 Wildwood, Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

PROPOSED RULE

19 CSR 30-70.320 Accreditation of Training Providers for Training Courses

PURPOSE: This rule provides the procedures and requirements for the accreditation of training providers for training courses.

(1) Reciprocity. The Office of Lead Licensing and Accreditation (OLLA) may issue an accreditation certificate to any person or entity that has made application, paid the necessary fees, and provided proof of accreditation from another state, provided that OLLA has entered into a reciprocity agreement with that state.

(2) Good Standing. Every corporation desiring accreditation of the lead inspector, risk assessor, lead abatement worker, lead abatement supervisor and/or project designer training course under sections 701.300 through 701.338, RSMo, must be registered and in good standing with the Missouri secretary of state's office.

(3) Application for Accreditation of a Training Provider for a Training Course.

(A) Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The application shall include the following:

1. Completed training provider course accreditation application form provided by OLLA which shall include:

A. The training provider's name, address, and telephone number;

B. The name and date of birth of the training manager;

C. The name and date of birth of the principal instructor for each course;

D. A list of locations at which training will take place;

E. A list of courses for which the training provider is applying for accreditation; and

F. A statement signed by the training manager certifying that the information provided in the application for accreditation, and any additional information included with the application, is true and accurate to the best of the training manager's knowledge and understanding, that the training provider will comply with 19 CSR 30-70.310 through 19 CSR 30-70.400, and that the training provider will only conduct lead training in those occupations in which the training provider has received accreditation;

2. A copy of the student and instructor manuals;

3. Course agenda;

4. Course examination blueprint;

5. A copy of the quality control plan as described in subsection (6)(H) of this regulation;

6. A copy of a sample course certificate as described in subsection (6)(G) of this regulation;

7. A description of the facilities and equipment to be used for lecture and hands-on training;

8. A description of the activities and procedures that will be used for conducting the hands-on skills assessment for each course;

9. A check or money order for the nonrefundable fee of one thousand dollars ($1,000) per course made payable to the Missouri Department of Health; provided, however, that training providers who are a state, federally recognized Indian tribe, local government or nonprofit organization shall be exempt from payment of such fee; and

10. Supporting documentation of the training manager's and principal instructor's qualifications.

(4) Application for Accreditation of a Training Provider for a Training Course Under Reciprocity.

(A) Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The application shall include the following:

1. Completed training provider course accreditation application form provided by OLLA which shall include:

A. The training provider's name, address, and telephone number;

B. The name and date of birth of the training manager;

C. The name and date of birth of the principal instructor for each course;

D. A list of locations at which training will take place;

E. A list of courses for which the training provider is applying for accreditation; and

F. A statement signed by the training manager certifying that the information provided in the application for accreditation, and any additional information included with the application, is true and accurate to the best of the training manager's knowledge and understanding, that the training provider will comply with 19 CSR 30-70.310 through 19 CSR 30-70.400, and that the training provider will only conduct lead training in those occupations in which the training provider has received accreditation;

2. Course agenda;

3. Course examination blueprint;

4. A copy of the quality control plan as described in subsection (6)(H) of this regulation;

5. A copy of a sample course certificate as described in subsection (6)(G) of this regulation;

6. A description of the facilities and equipment to be used for lecture and hands-on training;

7. A description of the activities and procedures that will be used for conducting the hands-on skills assessment for each course;

8. A check or money order for the nonrefundable fee of one thousand dollars ($1,000) per course made payable to the Missouri Department of Health; provided, however, that training providers who are a state, federally recognized Indian tribe, local government or nonprofit organization shall be exempt from payment of such fee; and

9. Supporting documentation of the training manager's and principal instructor's qualifications.

(5) Procedure for Issuance or Denial of a Training Provider for a Training Course.

(A) OLLA will inform the applicant in writing that the application is either approved, incomplete, or denied.

1. If an application is incomplete, the notice shall include a list of additional information or documentation required to complete the application.

A. Within thirty (30) calendar days after the issuance date of the notice of incomplete application, the applicant shall submit to OLLA in writing, the information requested in the written notice.

B. Failure to submit the information requested in the written notice within thirty (30) calendar days shall result in denial of the application for a training course accreditation.

C. After the information in the written notice is received, OLLA will inform the applicant in writing that the application is either approved or denied.

2. If an application is approved, OLLA shall issue a two (2)-year accreditation certificate.

3. If an application for training course accreditation is denied, OLLA shall state in the notice of denial to the applicant the specific reasons for the denial.

A. OLLA may deny training course accreditation for any one (1) or any combination of the following reasons:

(I) Failure of the training manager and/or principal instructor to satisfy the experience requirements;

(II) History of citations or violations of existing local, state and federal regulations or standards;

(III) Persons listed in the application have been convicted of a felony under any state or federal law or have entered a plea of guilty or *nolo contendere* in a criminal prosecution under the laws of any state or of the United States;

(IV) False or misleading statements in the application;

(V) False records, instructor qualifications, or other accreditation-related information or documentation;

(VI) Failure of the applicant to submit a complete application; or

(VII) Final disciplinary action against a training provider by another state, territory, federal agency or country, whether or not voluntarily agreed to by the training provider, including, but not limited to, the denial of accreditation, surrender of the accreditation, allowing the accreditation to expire or lapse, or discontinuing or restricting the accreditation while subject to investigation or while actually under investigation by another state, territory, or federal agency or country.

(B) If an application is denied, the applicant may reapply for accreditation at any time.

(C) If an applicant is aggrieved by a determination to deny accreditation, the applicant may request a hearing by the department according to Chapter 536 of the Administrative Procedures Act.

(6) Requirements for Accreditation of a Training Provider for a Training Course. For a training provider to maintain accreditation from OLLA to offer a training course, the training provider shall meet the following requirements:

(A) Training Manager. The training provider shall employ a training manager who meets the requirements in subsection (7)(A) of this regulation. The training manager shall be responsible for ensuring that the accredited training provider complies at all times with all of the requirements in these regulations. The training manager may designate guest instructors as needed to provide instruction specific to the lecture, hands-on activities, or work practice components of a course;

(B) Principal Instructor. The training provider, in coordination with the training manager, shall designate a qualified principal instructor who meets the requirements in subsection (8)(A) of this regulation. The principal instructor shall be responsible for the organization of the course and oversight of the teaching of all course materials;

(C) The training provider shall meet the requirements set forth in subsections (6)(D) through (N) of this regulation for each course contained in the application for accreditation of a training provider for a training course;

(D) Delivery of Course. The training provider shall ensure the availability of, and provide adequate facilities for, the delivery of the lecture, course exam, hands-on training, and assessment activities. This includes providing training equipment that reflects current work practice standards set forth in 19 CSR 30-70.600 through 19 CSR 30-70.650 and maintaining or updating the course materials, equipment and facilities as needed;

(E) Course Exam. For each course offered, the training provider shall conduct a monitored, written course exam at the completion of each course. An oral exam may be administered in lieu of a written course exam for the lead abatement worker course only. If an oral examination is administered, the student is required to provide his or her answers to the exam in writing.

1. The course exam shall evaluate the trainee's competency and proficiency.

2. All individuals must pass the course exam in order to successfully complete any course and receive a course completion certificate. Seventy percent (70%) shall be considered the passing score on the course exam.

3. The training provider and the training manager are responsible for maintaining the validity and integrity of the course exam to ensure that it accurately evaluates the trainees' knowledge and retention of the course topics;

(F) Hands-On Skills Assessment. For each course offered, except for project designers, the training provider shall conduct a hands-on skills assessment. The training manager is responsible for maintaining the validity and integrity of the hands-on skills assessment to ensure that it accurately evaluates the trainees' performance of the work practices and procedures associated with the course topics;

(G) Course Completion Certificate. The training provider shall issue unique course completion certificates to each individual who passes the training course. The course completion certificate shall include:

1. The name, a unique identification number, and address of the individual;

2. The name of the particular course that the individual completed;

3. Dates of course completion/exam passage; and

4. The name, address and telephone number of the training provider;

(H) Quality Control Plan. The training manager shall develop and implement a quality control plan. The plan shall be used to maintain or improve the quality of the accredited training provider over time.

1. This plan shall contain at least the following elements:

A. Procedures for periodic revision of training materials and the course exam to reflect innovations in the field;

B. Procedures for the training manager's annual review of principal instructor competency; and

C. A review to ensure the adequacy of the facilities and equipment.

2. An annual report discussing the results of the quality control plan shall be submitted to OLLA one (1) year following accreditation and at renewal;

(I) Access by OLLA. The accredited training provider shall allow OLLA to conduct audits as needed in order for OLLA to evaluate the provider's compliance with OLLA accreditation requirements. During this audit, the provider shall make available to OLLA information necessary to complete the evaluation. At OLLA's request, the provider shall also make documents available for photocopying;

(J) Recording Keeping. The accredited training provider shall maintain at its principal place of business, for at least five (5) years, the following records:

1. All documents specified in subsections (7)(B) and (8)(B) of this regulation that demonstrate the qualifications listed in subsection (7)(A) of this regulation for the training manager, and subsection (8)(A) of this regulation for the principal instructor;

2. Curriculum/course materials and documents reflecting any changes made to these materials;

3. The course examination and blueprint;

4. Information regarding how the hands-on skills assessment is conducted including, but not limited to:

A. Who conducts the assessment;

B. How the skills are graded;

C. What facilities are used;

D. The pass/fail rate; and

E. The quality control plan as described in subsection (6)(H) of this regulation;

5. Results of the students' hands-on skills assessments and course exams, and a record of each student's course completion certificate; and

6. Any other material not listed in paragraph (6)(J)4. of this regulation that was submitted to OLLA as part of the training provider's application for accreditation;

(K) Course Notification. The accredited training provider shall notify OLLA in writing fourteen (14) calendar days prior to conducting an accredited training course.

1. The notification shall include:

A. The location of the course if it will be conducted at a location other than the provider's training facility;

B. The dates and times of the course;

C. The name of the course; and

D. The name of the principal instructor and any guest instructors conducting the course.

2. If the scheduled training course has been changed or canceled, the accredited training provider shall notify OLLA in writing twenty-four (24) hours prior to the scheduled training course;

(L) Changes of a Training Course. Once a training course has been accredited, any changes in any one (1) of the items listed below must be submitted in writing to OLLA for review and approval prior to the continuation of the training course:

1. Course curriculum;
2. Course examination;
3. Course materials;
4. Training manager and/or principal instructors; and/or
5. Certificate of completion.

Within sixty (60) calendar days of receipt of a change of a training course, OLLA shall inform the provider in writing that the change is either approved or disapproved. If the change is approved, the accredited training provider shall include the change in the training course. If the change is disapproved, the accredited training provider shall not include the change in the training course;

(M) Change of Ownership. If an accredited training provider changes ownership, the new owner shall notify OLLA in writing at least thirty (30) calendar days prior to the change of ownership becoming effective. The notification shall include a new training course provider accreditation application, the appropriate fee(s), and the date that the change of ownership will become effective. The new training course provider accreditation application shall be processed pursuant to 19 CSR 30-70.320. The current training provider's accreditation shall expire on the effective date set forth in the notification of the change of ownership; and

(N) Change of Address. The accredited training provider shall notify OLLA in writing of the accredited training provider's new address, telephone number and description of the new training facility, and shall submit such notification to OLLA not later than thirty (30) days prior to relocating its business or transferring its records.

(7) Training, Education and Experience Requirements for the Training Manager.

(A) The education and/or experience requirements for the training manager shall include one (1) year of experience in lead or asbestos abatement, painting, carpentry, renovation, remodeling, occupational safety and health, or industrial hygiene; and at least one of the following:

1. A minimum of two (2) years of experience teaching or training adults;
2. A bachelor's or graduate degree in building construction technology, engineering, industrial hygiene, safety, public health, business administration, education; or
3. A minimum of two (2) years experience in managing a training program specializing in environmental hazards.

(B) The following records of experience and education shall be recognized by OLLA as evidence that the individual meets or exceeds OLLA requirements for a training manager:

1. Resumes, letters of reference from past employers, or documentation to evidence past experience, which includes dates (month/year) of employment, employer's name, address, telephone number, and specific job duties, as evidence of meeting the experience requirements; and
2. Official academic transcripts or diploma, as evidence of meeting the education requirements.

(8) Training, Education and Experience Requirements for the Principal Instructor.

(A) The training, education and experience requirements for the principal instructor of a training course includes all of the following:

1. Successfully completed at least twenty-four (24) hours of any OLLA- or Environmental Protection Agency (EPA)-accredited lead-specific training;
2. A minimum of one (1) year of experience in teaching or training adults; and
3. A minimum of one (1) year of experience in lead or asbestos abatement, painting, carpentry, renovation, remodeling, occupational safety and health, or industrial hygiene, or an associate degree or higher from a post-secondary educational institution in building construction technology, engineering, safety, public health, or industrial hygiene; and

(B) The following records of experience and education shall be recognized by OLLA as evidence that the individual meets or exceeds OLLA requirements for a principal instructor:

1. Course completion certificates issued by the OLLA- or EPA-accredited training provider as evidence of meeting the training requirements.
2. Official academic transcripts or diploma, as evidence of meeting the education requirements.
3. Resumes, letters of reference from past employers, or documentation to evidence past experience, which includes dates (month/year) of employment, employer's name, address, telephone number, and specific job duties, as evidence of meeting the experience requirements.

AUTHORITY: sections 701.301 and 701.314, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. Original rule filed Aug. 19, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule is estimated to cost private entities $101,000 biannually in the aggregate. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Lois Kollmeyer, Director, Division of Health Standards and Licensure, 920 Wildwood, Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

PRIVATE ENTITY COST

I. RULE NUMBER

Title: 19-DEPARTMENT OF HEALTH

Division: 30-Division of Health Standards & Licensure

Chapter: 70-Lead Abatement and Assessment Licensing, Training Accreditation

Type of Rule Making: New Rule

Rule Number and Name: 19 CSR 30-70.320-Accreditation of Training Providers for Training Courses

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimate n the aggregate as to the cost of compliance with the rule by the affected entities.
25	Accredited Training Providers	$101,000.00

III. WORKSHEET

YEAR ONE

$1000 (cost for accreditation) x 59 (number of applications for accreditation) = $59,000.00.

YEAR TWO

$1000 (cost for accreditation) x 42 (number of applications for accreditation) = $42,000.00.

Total bi-annual accreditation fees, thereafter = $101,000.00

IV. ASSUMPTIONS

Because legislation that went in to effect on August 28, 1998, repealed all similarly related statutes and regulations this fiscal note has been prepared as if there were no previous regulation and related fiscal notes.

Under the proposed new rule, accredited training providers are required to submit both an application and an application fee, in the amount of $1000, for each training course they wish to have accredited by OLLA. OLLA will issue a two year accreditation for lead abatement worker training courses.

According to OLLA data, there are currently 25 training providers offering one or more OLLA accredited training courses. These providers are currently offering a total of 51 accredited training courses. In addition to these training courses, the DOH estimates that during the first year under the proposed new rule 13 of these training providers will also submit application for accreditation of training courses for the new risk

assessor and project designer licensure categories; the remaining 12 providers will submit application for these new categories during the second year.

	Expiration Date	
	1999	2000
Inspector:	8	4
Risk Assessor	13	12
Supervisor	12	7
Worker	13	7
Project Designer	13	12
Total	59	42

Bi-annual Total Applications: 101

If there was more than one method to calculate a cost, the most expensive method was used.

It is anticipated the total aggregated cost per year for standard licensure will recur each year for the life of the rule. The duration of this rule cannot be estimated. The cost will be adjusted by 5% annually for inflation.

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

PROPOSED RULE

19 CSR 30-70.330 Requirements for a Training Provider of a Lead Inspector Training Course

PURPOSE: This rule delineates the curriculum requirements for a lead inspector training course.

(1) A training provider of a lead inspector training course must ensure that their lead inspector training course curriculum includes, at a minimum, sixteen (16) training hours of classroom training and eight (8) training hours of hands-on training.

(2) A lead inspector training course shall include, at a minimum, the following course topics. Requirements ending in an asterisk (*) indicate areas that require hands-on training as an integral component of the course—

(A) Role and responsibilities of an inspector;

(B) Background information on lead—history of lead use and sources of environmental lead contamination;

(C) Health effects of lead—how lead enters and affects the body; levels of concern; and symptoms, diagnosis and treatments;

(D) Regulatory background and overview of lead in applicable state and federal guidance or regulations pertaining to lead-bearing substances including: 40 CFR part 745; U.S. HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (and its most recent revisions), 29 CFR part 1910.1200; 29 CFR part 1926.62; Title X: Residential Lead-Based Paint Hazard Reduction Act of 1992;

(E) Sections 701.300 to 701.338, RSMo, Missouri regulations pertaining to lead licensure, and Missouri Work Practice Standards for Lead-Bearing Substances specific to lead inspection activities;

(F) Lead-based paint inspection methods, including selection of rooms and components for sampling or testing;*

(G) Pre-inspection planning and review including: developing a schematic site plan, determining inspection criteria and locations to collect samples in single and multi-family housing;*

(H) Paint, dust, and soil sampling methodologies including:*

1. Lead-based paint testing or X-ray fluorescence paint analyzer (XRF) use: types of XRF units and basic operation and interpretation of XRF results, including substrate correction;

2. Soil sample collection including soil sampling techniques, number and location of soil samples, and interpretation of soil sampling results; and

3. Dust sample collection techniques including number and location of wipe samples, and interpretation of test results;

(I) Quality control and assurance procedures in testing analysis;

(J) Legal liabilities and obligations;

(K) Clearance standards and testing, including random sampling;*

(L) Record keeping; and

(M) Preparation of the final inspection report.*

AUTHORITY: sections 701.301 and 701.314, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. Original rule filed Aug. 19, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Lois Kollmeyer, Director, Division of Health Standards and Licensure, 920 Wildwood, Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

PROPOSED RULE

19 CSR 30-70.340 Requirements for a Training Provider of a Risk Assessor Training Course

PURPOSE: This rule delineates the curriculum requirements for a risk assessor training course.

(1) A training provider of a risk assessor training course must ensure that their risk assessor training course curriculum includes, at a minimum, twelve (12) training hours of classroom training and four (4) training hours of hands-on training.

(2) A lead risk assessor training course shall include, at a minimum, the following course topics. Requirements ending in an asterisk (*) indicate areas that require hands-on training as an integral component of the course—

(A) Role and responsibilities of a risk assessor;

(B) Collection of background information to perform a risk assessment, including information on the age and history of the housing and occupancy by children under six (6) years of age and women of child-bearing age;

(C) Sources of environmental lead contamination such as paint, surface dust and soil, water, air, packaging, and food;

(D) Visual inspection for the purposes of identifying potential sources of lead hazards;*

(E) Lead hazard screen protocol;*

(F) Sampling for other sources of lead exposure, including drinking water;*

(G) Interpretation of lead-based paint and other lead sampling results related to Missouri clearance standards;*

(H) Sections 701.300 to 701.338, RSMo, Missouri regulations pertaining to lead licensure, and Missouri Work Practice Standards for Lead-Bearing Substances specific to risk assessment activities;

(I) Development of hazard control options, the role of interim controls, and operations and maintenance activities to reduce lead-bearing substance hazards;

(J) Legal liabilities and obligations specific to a risk assessor; and

(K) Preparation of a final risk assessment report.*

AUTHORITY: sections 701.301 and 701.314, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. Original rule filed Aug. 19, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Lois Kollmeyer, Director, Division of Health Standards and Licensure, 920 Wildwood, Jefferson City, MO 65109. To be considered, com-

*ments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

PROPOSED RULE

19 CSR 30-70.350 Requirements for a Training Provider of a Lead Abatement Worker Training Course

PURPOSE: This rule delineates the curriculum requirements for a lead abatement worker training course.

(1) A training provider of a lead abatement worker training course must ensure that their lead abatement worker training course curriculum includes, at a minimum, sixteen (16) training hours of classroom training and eight (8) training hours of hands-on training.

(2) A lead abatement worker training course shall include, at a minimum, the following course topics. Requirements ending in an asterisk (*) indicate areas that require hands-on training as an integral component of the course—

(A) Role and responsibilities of an abatement worker;

(B) Background information on lead—history of lead use and sources of environmental lead contamination;

(C) Health effects of lead—how lead enters and affects the body; levels of concern; and symptoms, diagnosis and treatments;

(D) Regulatory background and overview of lead in applicable state and federal guidance or regulations pertaining to lead-bearing substances including: 40 CFR part 745; U.S. HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (and its most recent revisions), 29 CFR part 1910.1200; 29 CFR part 1926.62; Title X: Residential Lead-Based Paint Hazard Reduction Act of 1992;

(E) Personal protective equipment information, including respiratory equipment selection, air-purifying respirators, care and cleaning of respirators, respiratory program, protective clothing and equipment, and hygienic practices;*

(F) Lead hazard recognition and control; site characterization, exposure measurements, medical surveillance, and engineering controls;*

(G) Preabatement set-up procedures, including containments for residential and commercial building, and superstructures;*

(H) Lead abatement and lead hazard reduction methods for residential and commercial buildings, and superstructures, including prohibited practices;*

(I) Sections 701.300 to 701.338, RSMo, Missouri regulations pertaining to lead licensure, Missouri Work Practice Standards for Lead-Bearing Substances specific to lead abatement activities;

(J) Interior dust abatement methods and cleanup techniques;*

(K) Soil and exterior dust abatement methods;* and

(L) Waste disposal techniques.

AUTHORITY: sections 701.301 and 701.314, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. Original rule filed Aug. 19, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Lois Kollmeyer, Director, Division of Health Standards and Licensure, 920 Wildwood, Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

PROPOSED RULE

19 CSR 30-70.360 Requirements for a Training Provider of a Lead Abatement Supervisor Training Course

PURPOSE: This rule delineates the curriculum requirements for a lead abatement supervisor training course.

(1) A training provider of a lead abatement supervisor training course must ensure that their lead abatement supervisor training course curriculum includes, at a minimum, twenty-eight (28) training hours of classroom training and twelve (12) training hours of hands-on training.

(2) A lead abatement supervisor training course shall include, at a minimum, the following course topics. Requirements ending in an asterisk (*) indicate areas that require hands-on training as an integral component of the course—

(A) Role and responsibilities of a supervisor;

(B) Background information on lead—history of lead use and sources of environmental lead contamination;

(C) Health effects of lead—how lead enters and affects the body, levels of concern, and symptoms, diagnosis and treatments;

(D) Regulatory background and overview of lead in applicable state and federal guidance or regulations pertaining to lead-bearing substances including: 40 CFR part 745; U.S. HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (and its most recent revisions), 29 CFR part 1910.1200; 29 CFR part 1926.62; Title X: Residential Lead-Based Paint Hazard Reduction Act of 1992;

(E) Liability and insurance issues relating to lead abatement;

(F) Cost estimation;*

(G) Risk assessment and inspection report interpretation;*

(H) Development and implementation of an occupant protection plan and preabatement work plan, including containments for residential and commercial buildings, and superstructures;*

(I) Community relations process;

(J) Lead hazard recognition and control;*

(K) Hazard recognition and control techniques: site characterization, exposure measurements, material identification, safety and health planning, medical surveillance, and engineering controls;

(L) Personal protective equipment information regarding respiratory equipment selection, air-purifying respirators, care and cleaning of respirators, respiratory program, protective clothing and equipment, and hygienic practices;*

(M) Lead abatement and lead hazard reduction methods, including prohibited practices, for residential and commercial buildings and superstructures;*

(N) Sections 701.300 to 701.338, RSMo, Missouri regulations pertaining to lead licensure, Missouri Work Practice Standards for Lead-Bearing Substances specific to lead abatement activities;

(O) Project management including supervisory techniques, contractor specifications; emergency response planning, and blueprint reading;*

(P) Interior dust abatement and cleanup techniques;*

(Q) Soil and exterior dust abatement methods;*

(R) Clearance standards and testing;

(S) Cleanup and waste disposal;

(T) Recordkeeping; and

(U) Preparation of an abatement report.*

AUTHORITY: sections 701.301 and 701.314, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. Original rule filed Aug. 19, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Lois Kollmeyer, Director, Division of Health Standards and Licensure, 920 Wildwood, Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

PROPOSED RULE

19 CSR 30-70.370 Requirements for a Training Provider of a Project Designer Training Course

PURPOSE: This rule delineates the curriculum requirements for a project designer training course.

(1) A training provider of a project designer training course must ensure that their project designer training course curriculum includes, at a minimum, eight (8) training hours of classroom training.

(2) A project designer training course shall include, at a minimum, the following course topics:

(A) Role and responsibilities of a project designer;

(B) Development and implementation of an occupant protection plan for large-scale abatement projects;

(C) Lead abatement and lead hazard reduction methods, including prohibited practices, for large-scale abatement projects;

(D) Interior dust abatement/cleanup or lead hazard control and reduction methods for large-scale abatement projects;

(E) Soil and exterior dust abatement methods for large-scale abatement projects;

(F) Clearance standards and testing for large-scale abatement projects; and

(G) Integration of lead abatement methods with modernization and rehabilitation projects for large-scale abatement projects.

AUTHORITY: sections 701.301 and 701.314, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. Original rule filed Aug. 19, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Lois Kollmeyer, Director, Division of Health Standards and Licensure, 920 Wildwood, Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

PROPOSED RULE

19 CSR 30-70.380 Requirements for the Accreditation of Refresher Courses

PURPOSE: This rule delineates the requirements for lead inspector, risk assessor, lead abatement worker, lead abatement supervisor and/or project designer refresher training courses.

(1) Application for Accreditation of a Training Provider for a Refresher Training Course. A training provider may seek accreditation to offer refresher courses in any occupation. To obtain the Office of Lead Licensing and Accreditation (OLLA) accreditation to offer refresher training, a training provider must meet the following minimum requirements:

(A) Each refresher course shall review the curriculum topics of the full-length courses listed under 19 CSR 30-70.330 through 19 CSR 30-70.370 as appropriate. In addition, training providers shall ensure that their courses of study include, at a minimum, the following:

1. An overview of current safety practices relating to lead-bearing substance activities in general, as well as specific information pertaining to the appropriate occupation;

2. Current laws and regulations relating to lead-bearing substance activities in general, as well as specific information pertaining to the appropriate occupation; and

3. Current technologies relating to lead-bearing substance activities in general, as well as specific information pertaining to the appropriate occupation;

(B) Each refresher course, except for the project designer course, shall last a minimum of eight (8) training hours. The project designer refresher course shall last a minimum of four (4) training hours;

(C) For each course offered, the training program shall conduct a hands-on assessment (if applicable); and

(D) For each refresher course offered, the training provider shall conduct a course exam at the completion of the course.

(2) A training provider may apply for accreditation of a refresher course concurrently with its application for accreditation of the corresponding training course as described in 19 CSR 30-70.320 as appropriate. If so, OLLA shall use the procedures and requirements described in 19 CSR 30-70.320 for accreditation of the refresher course and the corresponding training course.

(3) A training provider seeking accreditation to offer refresher courses only, shall submit a written application to OLLA.

(A) Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The application shall include the following:

1. Completed training course accreditation application form provided by OLLA which shall include:

A. The training provider's name, address, and telephone number;

B. The name and date of birth of the training manager;

C. The name and date of birth of the principal instructor for each course;

D. A list of locations at which training will take place;

E. A list of courses for which the training provider is applying for accreditation; and

F. A statement signed by the training manager certifying that the information provided in the application for accreditation, and any additional information included with the application, is true and accurate to the best of the training manager's knowledge and understanding, that the training provider will comply with 19 CSR 30-70.310 through 19 CSR 30-70.400, and that the training provider will only conduct lead training in those occupations in which the training provider has received accreditation;

2. A copy of the student and instructor manuals;

3. Course agenda;

4. Course examination blueprint;

5. A copy of the quality control plan as described in 19 CSR 30-70.320(6)(H);

6. A copy of a sample course completion certificate as described in paragraph 19 CSR 30-70.320(6)(G);

7. A description of the facilities and equipment to be used for lecture and hands-on training;

8. A check or money order for the nonrefundable fee of two hundred fifty dollars ($250); provided, however, that training providers who are a state, federally recognized Indian tribe, local government or nonprofit organization shall be exempt from payment of such fee; and

9. The training manager's and principal instructor's qualifications.

(4) The procedures for issuance or denial in 19 CSR 30-70.320(5), and the requirements for accreditation of a training provider for a training course in 19 CSR 30-70.320(6) through 19 CSR 30-70.320(8), shall apply to all training providers applying for the accreditation of refresher training courses.

(5) Application for Accreditation of a Training Provider for a Refresher Training Course Under Reciprocity. To obtain OLLA accreditation by reciprocity to offer refresher training in any occupation, a training provider shall submit a completed application to OLLA. Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(A) The application shall include the following:

1. Completed training course accreditation application form provided by OLLA which shall include:

A. The training provider's name, address, and telephone number;

B. The name and date of birth of the training manager;

C. The name and date of birth of the principal instructor for each course;

D. A list of locations at which training will take place;

E. A list of courses for which the training provider is applying for accreditation; and

F. A statement signed by the training manager certifying that the information provided in the application for accreditation, and any additional information included with the application, is true and accurate to the best of the training manager's knowledge and understanding, that the training provider will comply with 19 CSR 30-70.310 through 19 CSR 30-70.400, and that the training provider will only conduct lead training in those occupations in which the training provider has received accreditation;

2. Course agenda;

3. Course examination blueprint;

4. A copy of the quality control plan as described in 19 CSR 30-70.320(6)(H);

5. A copy of a sample course completion certificate as described 19 CSR 30-70.320(6)(G);

6. A description of the facilities and equipment to be used for lecture and hands-on training;

7. A check or money order for the nonrefundable fee of two hundred fifty dollars ($250); provided, however, that training providers who are a state, federally recognized Indian tribe, local government or nonprofit organization shall be exempt from payment of such fee; and

8. The training manager's and principal instructor's qualifications.

(B) The procedures for issuance or denial in 19 CSR 30-70.320(5), and the requirements for accreditation of a training provider for a training course in 19 CSR 30-70.320(6) through 19 CSR 30-70.320(8), shall apply to all training providers applying for accreditation by reciprocity of refresher training courses as applicable.

AUTHORITY: sections 701.301 and 701.314, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. Original rule filed Aug. 19, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule is estimated to cost private entities $25,250 bianually in the aggregate. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Lois Kollmeyer, Director, Division of Health Standards and Licensure, 920 Wildwood, Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

PRIVATE ENTITY COST

I. RULE NUMBER

Title: 19-DEPARTMENT OF HEALTH

Division: 30-Division of Health Standards & Licensure

Chapter: 70-Lead Abatement and Assessment Licensing, Training Accreditation

Type of Rule Making: New Rule

Rule Number and Name: 19 CSR 30-70.380-Requirements for the Accreditation of Refresher Courses

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimate n the aggregate as to the cost of compliance with the rule by the affected entities.
25	Accredited Training Providers	$25,250.00

III. WORKSHEET

YEAR ONE

$250 (cost for accreditation) x 59 (number of applications for accreditation) = $14,750.00.

YEAR TWO

$250 (cost for accreditation) x 42 (number of applications for accreditation) = $10,500.00.

Total bi-annual accreditation fees, thereafter = $25,250.00

IV. ASSUMPTIONS

Because legislation that went in to effect on August 28, 1998, repealed all similarly related statutes and regulations this fiscal note has been prepared as if there were no previous regulation and related fiscal notes.

Under the proposed new rule, accredited training providers are required to submit both an application and an application fee, in the amount of $250, for each refresher training course they wish to have accredited by OLLA. OLLA will issue a two year accreditation for approved refresher training courses.

According to OLLA data, there are currently 25 training providers offering one or more OLLA accredited training courses. These providers are currently offering a total of 51 accredited training courses. In addition to these training courses, the DOH estimates that during the first year under the proposed new rule 13 of these training providers will also submit application for accreditation of training courses for the new risk assessor and project designer licensure categories; the remaining 12 providers will submit application for

these new categories during the second year. The DOH estimates that training providers will submit to OLLA the same number of applications for the accreditation of refresher training courses in these same training categories.

	Expiration Date	
	1999	2000
Inspector:	8	4
Risk Assessor	13	12
Supervisor	12	7
Worker	13	7
Project Designer	13	12
Total	59	42

Bi-annual Total Applications: 101

If there was more than one method to calculate a cost, the most expensive method was used.

It is anticipated the total aggregated cost per year for standard licensure will recur each year for the life of the rule. The duration of this rule cannot be estimated. The cost will be adjusted by 5% annually for inflation.

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

PROPOSED RULE

19 CSR 30-70.390 Reaccreditation of a Training Course or Refresher Course

PURPOSE: This rule provides the processes and requirements for the reaccreditation of a training course or refresher course.

(1) Unless sooner revoked, a training provider's accreditation (including refresher training accreditation) shall expire two (2) years after the date of issuance. If a training provider meets the requirements of this section, the training provider shall be re-accredited.

(2) A training provider seeking reaccreditation shall submit an application to the Office of Lead Licensing and Accreditation (OLLA) at least sixty (60) calendar days before its accreditation expires. If a training provider does not submit its application for reaccreditation by that date, OLLA cannot guarantee that the provider will be reaccredited before the end of the accreditation period.

(3) The training provider's application for reaccreditation shall contain—

(A) Completed training provider course accreditation application form provided by OLLA which shall include:

1. The training provider's name, address, and telephone number;
2. The name and date of birth of the training manager;
3. The name and date of birth of the principal instructor for each course;
4. A list of locations at which training will take place;
5. A list of courses for which the training provider is applying for reaccreditation; and
6. A statement signed by the training manager certifying that the information provided in the application for reaccreditation, and any additional information included with the application, is true and accurate to the best of the training manager's knowledge and understanding, that the training provider will comply with 19 CSR 30-70.310 through 19 CSR 30-70.400, and that the training provider will only conduct lead training in those occupations in which the training provider has received accreditation;

(B) A list of courses for which it is applying for reaccreditation;

(C) A description of any changes to the training facility, equipment or course materials since its last application was approved that adversely affects the student's ability to learn; and

(D) A check or money order made payable to the Missouri Department of Health for the nonrefundable fee of one thousand dollars ($1,000) for the training course and two hundred fifty dollars ($250) for the refresher training course; provided, however that training providers who are a state, federally recognized Indian tribe, local government or nonprofit organization shall be exempt from payment of such fee.

(4) The training provider shall comply with all requirements in 19 CSR 30-70.320 through 19 CSR 30-70.380, as applicable.

(5) If the training provider has allowed its accreditation to expire, and the provider desires to be accredited, it must reapply pursuant to 19 CSR 30-70.320.

AUTHORITY: sections 701.301 and 701.314, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. Original rule filed Aug. 19, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Lois Kollmeyer, Director, Division of Health Standards and Licensure, 920 Wildwood, Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

PROPOSED RULE

19 CSR 30-70.400 Suspension, Revocation, and Restriction of Accredited Training Providers

PURPOSE: This rule provides the processes and reasons for suspension, revocation and restriction of an accredited training provider.

(1) The Office of Lead Licensing and Accreditation (OLLA) may restrict, suspend or revoke training provider accreditation if a training provider, training manager, or other person with supervisory authority over the training provider does any one or any combination of the following:

(A) Provides, offers to provide, or claims to provide OLLA-accredited training courses without such accreditation;

(B) Presents inaccurate information in a training course;

(C) Fails to submit required information or notifications to OLLA in a timely manner;

(D) Falsifies accreditation records, instructor qualifications, or other accreditation-related information or documentation;

(E) Fails to comply with the training standards and requirements in 19 CSR 30-70.320;

(F) Has history of citations or violations of existing local, state and federal regulations or standards;

(G) Has been convicted of a felony under any state or federal law or has entered a plea of guilty or *nolo contendere* in a criminal prosecution under the laws of any state or of the United States;

(H) Fails to comply with federal, state or local lead statutes or regulations;

(I) Makes false or misleading statements to OLLA in its application for accreditation or reaccreditation which OLLA relied upon in approving the application; or

(J) Final disciplinary action against a training provider by another state, territory, federal agency or country, whether or not voluntarily agreed to by the training provider, including, but not limited to, the denial of accreditation, surrender of the accreditation, allowing the accreditation to expire or lapse, or discontinuing or restricting the accreditation while subject to investigation or while actually under investigation by another state, territory, or federal agency or country.

(2) Prior to restricting, suspending, or revoking a training provider's accreditation, a training provider shall be given written notice of the reasons for the restriction, suspension and/or revoca-

tion. The training provider may request a hearing by the department according to Chapter 536 of Administrative Procedures Act.

AUTHORITY: sections 701.301 and 701.314, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. Original rule filed Aug. 19, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Lois Kollmeyer, Director, Division of Health Standards and Licensure, 920 Wildwood, Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

PROPOSED RULE

19 CSR 30-70.510 Standard of Professional Conduct

PURPOSE: This rule establishes a professional standard of conduct for licensed lead abatement workers, licensed lead abatement supervisors, licensed project designers, licensed lead inspectors, licensed risk assessors, licensed lead abatement contractors and training instructors and training managers of accredited lead training providers.

(1) In performing lead-bearing substance activities, licensees shall act with reasonable care and competence in applying the technical knowledge and skill as required by sections 701.300 through 701.338, RSMo, and 19 CSR 30-70.600 through 19 CSR 30-70.630 for the conduct of lead-bearing substance activities.

(2) In performing lead-bearing substance activities and training, licensees and accredited entities shall be cognizant that their primary responsibility is to conduct these activities safely, reliably, and effectively to protect human health and the environment. This shall not be compromised by any self-interest of the client, licensee or accredited entity.

(3) In performing lead-bearing substance activities and training, licensees and accredited entities shall not knowingly violate any local, state or federal laws. Licensees and accredited entities shall comply with state laws and regulations governing their practice.

(4) In instances where a licensee's or an accredited entity's professional judgment is overruled to the extent that it may endanger the health or welfare of the public or the environment, they shall notify their employer or client, the Office of Lead Licensing and Accreditation (OLLA), and/or other authority, as may be appropriate.

(5) Licensees and accredited entities shall not misrepresent or exaggerate the scope or the purpose for which they are licensed or accredited.

(6) Professional Responsibility.

(A) The licensee or accredited training provider shall, upon request or demand, produce to OLLA, or any of its representatives, any plan, document, book, record or copy thereof concerning a transaction covered by these regulations, and shall cooperate in the investigation of a complaint filed with OLLA.

(B) A licensee shall not use the design, plans or work of another person without that person's knowledge and consent. After consent, the licensee shall conduct a thorough review to the extent that he or she assumes full responsibility for the use of such design, plan or work of the other person.

(7) Good Standing in Other Jurisdictions.

(A) Persons licensed to design lead abatement projects, supervise lead abatement projects, conduct lead inspections and/or lead risk assessments, perform lead abatement work and training providers accredited to provide lead training in other jurisdictions shall be in good standing in every jurisdiction where licensed, certified, or accredited and shall not have had a license, certification or accreditation suspended, revoked or surrendered in connection with a disciplinary action.

(B) Licensees and accredited lead training providers shall notify OLLA in writing no later than ten (10) days after the final disciplinary action taken by another jurisdiction against their license or certification to conduct lead-bearing substance activities or against their accreditation to provide lead training.

AUTHORITY: sections 701.301, 701.312 and 701.314, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. Original rule filed Aug. 19, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Lois Kollmeyer, Director, Division of Health Standards and Licensure, 920 Wildwood, Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

PROPOSED RULE

19 CSR 30-70.520 Public Complaint Handling and Disposition Procedure

PURPOSE: This rule establishes procedures for the handling and disposition of public complaints received by the Office of Lead Licensing and Accreditation concerning alleged violations of sections 701.300 through 701.338, RSMo.

(1) Public complaints concerning alleged violations of sections 701.300 through 701.338, RSMo, shall be handled as follows:

(A) Any person may make a complaint alleging acts or practices which may constitute a violation of any provision of sections 701.300 through 701.338, RSMo, or 19 CSR 30-70.600 through 19 CSR 30-70.630 with the Office of Lead Licensing and Accreditation (OLLA) based upon personal knowledge or upon information received from other sources. The complaint may be made against a licensed or unlicensed individual, against an

accredited or non-accredited training provider or against an owner of a dwelling or child-occupied facility; and

(B) Complaints may be oral or written. Written complaints shall be mailed to: Missouri Department of Health, Office of Lead Licensing and Accreditation, P.O. Box 570, Jefferson City, MO 65102-0570.

AUTHORITY: sections 701.301, 701.312 and 701.314, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 1999. Original rule filed Aug. 19, 1999.

PUBLIC ENTITY COST: This proposed rule will have a total annual cost to state agencies or political subdivisions of $9,914.75 (adjusted annually for inflation).

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Lois Kollmeyer, Director, Division of Health Standards and Licensure, 920 Wildwood, Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

FISCAL NOTE
PUBLIC ENTITY COST

I. RULE NUMBER

Title: 19-DEPARTMENT OF HEALTH

Division: 30-Division of Health Standards & Licensure

Chapter: 70-Lead Abatement and Assessment Licensing, Training Accreditation

Type of Rule Making: New Rule

Rule Number and Name: 19 CSR 30-70.520-Public Complaint Handling and Disposition Procedure

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Missouri Department of Health	$9914.75

III. WORKSHEET

10 Complaints received with no formal investigation initiated:

Personal Services:

Complaint Intake - Average 30 min @ $13.75 per hour per complaint =	$ 68.80
Administrative Review - Average 30 min @ $19.94 per hour per complaint =	$ 99.70
Sub-Total:	$ 168.50 annual

25 Complaints received and investigated:

Personal Services:

Complaint Intake - Average 30 min @ $13.75 per hour per complaint =	$ 172.00
Travel Hours - Average 4 hrs @ $13.75 per complaint =	$1375.00
Investigation - Average 4 hrs @ $13.75 per hour per complaint =	$1375.00
Report Writing - Average 4 hrs @ $13.75 per hour per complaint =	$1375.00
Administrative Review - Average 30 min @ $19.94 per hour per complaint =	$ 249.25
Sub-Total =	$4546.25 annual

Expenses:

$150 - Travel miles =	$3750.00
$45 - Travel meals =	$1125.00
$65 - Travel Lodging on 20% of the complaints investigated =	$ 325.00
Sub-Total =	$5200.00 annual
Total Cost =	$9914.75 annual

IV. ASSUMPTIONS

Because legislation that went in to effect on August 28, 1998, repealed all similarly related statutes and regulations this fiscal note has been prepared as if there were no previous regulation and related fiscal notes.

The Department of Health estimates that OLLA will intake 35 complaints annually. It is estimated that 25 of these complaints will include allegations of noncompliance with OLLA rules and regulations and will be investigated.

The estimated cost of personal services for complaint intake and investigation is based upon the hourly rate (including fringe benefits) of OLLA's Environmental Specialist I ($13.75). The estimated cost of personal services for administrative review is based upon the hourly wage (including fringe benefits) of OLLA's Health Program Representative II/III ($19.94).

Complaint intake hours are based upon the estimated average amount of time required to receive and to record a complaint allegation. Investigative hours are based upon the estimated average amount of time required to conduct an administrative complaint investigation (travel, investigate, report write and review).

Estimated cost for mileage is based upon the mileage cost ($75) for 2 meetings (1 meeting to interview the complainant and witnesses and 1 meeting to interview the respondent).

Estimated Travel meals are based upon the average cost ($75) of 1 day of meals.

The Department of Health estimates that in 20% of the complaints the investigator will be required to remain in the field for 1 overnight stay in order to complete a field investigation. The estimated average cost for a hotel room is $65.

All costs are based on approximations and estimations by the department. If there was more than one method to calculate a cost, the most expensive method was used.

It is anticipated the total aggregated cost per year will recur each year for the life of the rule. The duration of this rule can not be estimated. The cost will be adjusted by 5% annually for inflation.

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

PROPOSED RULE

19 CSR 30-70.600 Definitions Pertaining to the Work Practice Standards for Conducting Lead-Bearing Substance Activities

PURPOSE: This rule provides definitions and acronyms to be used in the interpretation and enforcement of 19 CSR 30-70.600 through 19 CSR 30-70.640.

(1) Adequate quality control—a plan or design which ensures the authenticity, integrity, and accuracy of samples, including dust, soil, and paint chip or paint film samples. Adequate quality control also includes provisions for representative sampling.

(2) Authorized personnel—licensed lead workers, licensed lead risk assessors, licensed lead supervisors, licensed lead contractors, licensed project designers, representatives of the department and any persons authorized by the department to enter regulated areas.

(3) Bare soil area—any continuous three (3) square foot area or more of soil that has no or little plant growth or other covering, and that may be accessible to a child or may provide a source of airborne lead-bearing dust, including the sand in sandboxes.

(4) Clearance level—values that indicate the maximum concentration of lead allowed in surface dust, soil or water following an abatement activity.

(5) Common area—a portion of a building that is generally accessible to all occupants including, but not limited to, hallways, garages, laundry rooms, community centers, boundary fences, stairways, playgrounds and recreational rooms.

(6) Component or building component—a specific design, structural element or fixture of a building, dwelling or child-occupied facility that can be distinguished from each other by form, function and location.

(7) Containment—the structural system for protecting residents, the general public and the environment by controlling exposure to lead dust and debris created during a lead abatement project.

(8) Critical barrier containment—two (2) or more layers of six (6)-mil poly, or thicker, sealed over the entrance into a work area to prevent lead dust and debris from migrating outside of a regulated area.

(9) Disposal—the depositing or placing of lead-bearing components or a lead-bearing substance as waste.

(10) Distinct painting history—the application history, as indicated by its visual appearance or a record of application, over time, of paint or other surface coatings to a component or room.

(11) Documented methodologies—methods or protocols used to sample for the presence of lead in paint, dust, soil and water while incorporating adequate quality control.

(12) Elevated blood lead level (EBL)—an excessive absorption of lead that is a confirmed concentration of lead in whole blood of greater than or equal to ten micrograms per deciliter ($\geq$10 μg/dl) in persons under age eighteen ($<$18).

(13) Emergency situation—any lead abatement project that results from a sudden, unexpected event which poses an immediate threat to human health or the environment.

(14) EPA—United States Environmental Protection Agency.

(15) Hazardous waste—any waste designated as hazardous by 10 CSR 25-4.261 and/or 40 CFR 261.

(16) High efficiency particulate air (HEPA) filter—a filter capable of removing particles of 0.3 microns or larger from air at 99.97 percent or greater efficiency.

(17) HUD—United States Department of Housing and Urban Development.

(18) HUD guidelines—the most recent version of the "Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing," published by HUD.

(19) Industrial lead abatement—a lead abatement project performed on a structure not defined as a dwelling or child-occupied facility which includes, but is not limited to, bridges, water towers, holding tanks and other superstructures.

(20) Intact paint surface—any painted surface that is not chipped, chalked, peeled, flaked or otherwise separated from its substrate or that is not attached to a damaged substrate.

(21) Lead hazard screen—a risk assessment activity that involves limited paint and dust sampling as described in 19 CSR 30-70.620(7).

(22) Living area—any area of a residential dwelling used by one (1) or more children age six (6) and under, including, but not limited to, living rooms, kitchen areas, dens, play rooms and children's bedrooms.

(23) Multi-family dwelling—a structure that contains more than one (1) separate residential dwelling unit, which is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of one (1) or more persons.

(24) NLLAP—National Lead Laboratory Accreditation Program.

(25) OLLA—Missouri Department of Health Office of Lead Licensing and Accreditation, or subsequent designations of such office.

(26) Permanent—an activity that is designed to eliminate exposure to lead hazards for at least twenty (20) years, under typical conditions, from the date of application.

(27) Poly—polyethylene sheeting.

(28) RCRA—Resource Conservation and Recovery Act.

(29) Regulated area—an area where a lead-bearing substance activity is being conducted.

(30) Room equivalent—an identifiable part of a residence, such as a room, a house exterior, a foyer, staircase, hallway or an exterior area (i.e., play areas, painted swing sets, painted sandboxes, etc.).

(31) Structural integrity—a professional judgment as to the condition of a substrate, component or structure itself.

(32) Substrate—a surface to which a surface coating has been or may be applied. Examples of substrates are wood, metal, plaster, gypsum, concrete and brick.

(33) Surface coating integrity—a professional judgment as to whether a surface coating is cracked, chipped, peeling, blistering, flaking or otherwise deteriorated in any way.

(34) Surface coatings—include, but are not limited to, paints, stains, lacquers, varnishes and shellacs.

(35) Target housing—a dwelling built prior to 1978.

(36) Testing combination—a unique combination of a room equivalent, building component type and substrate.

(37) TSCA—Toxic Substances Control Act.

AUTHORITY: sections 701.301 and 701.312, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. Original rule filed Aug. 19, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Lois Kollmeyer, Director, Division of Health Standards and Licensure, 920 Wildwood, Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

PROPOSED RULE

19 CSR 30-70.610 Work Practice Standards for a Lead Inspection

PURPOSE: This rule delineates the standards to be followed by licensed lead inspectors and licensed risk assessors to conduct lead inspections in accordance with standards set forth in sections 701.300 through 701.338, RSMo, and 19 CSR 30-70.600 through 19 CSR 30-70.630.

(1) Licensure. All persons conducting lead inspections shall be licensed by the Office of Lead Licensing and Accreditation (OLLA) as set forth in sections 701.300 through 701.338, RSMo, and 19 CSR 30-70.110 through 19 CSR 30-70.200 as a lead inspector or risk assessor. Licensed lead inspectors and risk assessors shall present, upon request, proof of licensure in the form of the photo identification badge issued by OLLA.

(2) Conflict of Interest. OLLA recommends that licensed lead inspectors and risk assessors conducting lead inspection activities should avoid potential conflicts of interest by not being contracted, subcontracted or employed by a lead abatement contractor performing lead abatement activities on the same lead abatement project.

(3) Documented Methodologies for Conducting Lead Inspections.

(A) Licensed lead inspectors and risk assessors shall use the following documented methodologies as referenced in this regulation for conducting lead inspections:

1. The U.S. Department of Housing and Urban Development publication entitled, "Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing" (HUD Guidelines); and

2. The U.S. Environmental Protection Agency publications entitled "EPA Lead-Based Paint Inspector Model Curriculum"; "Guidance on Residential Lead-Based Paint, Lead-Contaminated Dust and Lead-Contaminated Soil"; and "Residential Sampling for Lead: Protocols for Dust and Soil Sampling."

(B) Where a conflict exists between any of the aforementioned methodologies and any federal or state statute or regulation, or any city or county ordinance, the most stringent of these shall be adhered to by the licensed lead inspector or risk assessor.

(4) Sample Forms and Questionnaires. Sample forms and questionnaires may be found within the documented methodologies listed in section (3) of this regulation. These sample forms and questionnaires may be used as a guide by licensed lead inspectors or risk assessors.

(5) Any paint chip, dust, or soil samples collected pursuant to these work practice standards shall be—

(A) Collected by persons licensed by OLLA as a lead inspector or risk assessor; and

(B) Analyzed by an National Lead Laboratory Accreditation Program (NLLAP)-accredited laboratory.

(6) Lead Inspection.

(A) When conducting a lead inspection, the following locations shall be selected according to the documented methodologies referenced in section (3) of this regulation and tested for the presence of lead-bearing substances:

1. In dwellings and child-occupied facilities, surface-by-surface sampling by paint chip collection and/or X-ray fluorescence (XRF) analysis shall be conducted on components with distinct painting histories, including those components that are stained, shellacked, varnished or covered with wallpaper; and

2. For multi-family dwellings and child-occupied facilities, the samples required in paragraph (6)(A)1. of this regulation shall be taken. In addition, surface-by-surface sampling by paint chip collection and/or XRF analysis shall be conducted in common areas on components with distinct painting histories, including those components that are stained, shellacked, varnished or covered with wallpaper.

(B) Paint and other surface coatings shall be sampled according to the documented methodologies referenced in section (3) of this regulation.

(7) Lead Inspection Report. The inspection report shall be prepared by the OLLA-licensed lead inspector or risk assessor that performed the lead inspection and shall include the following:

(A) Date of inspection;

(B) Address of dwelling or child-occupied facility;

(C) Date dwelling or child-occupied facility was constructed;

(D) Apartment numbers (if applicable);

(E) Name, address and telephone number of the owner or owners of each residential dwelling or child-occupied facility;

(F) Name, signature and license number of each licensed inspector and/or risk assessor conducting lead inspection;

(G) Name, address and telephone number of the firm employing each inspector and/or risk assessor;

(H) XRF results including the following (if applicable):

1. XRF manufacturer and model;

2. Serial number of XRF device used during the inspection;

3. Calibration verification from the beginning and end of each dwelling unit;

4. A copy of the XRF device user's certificate of training provided by the equipment manufacturer;

5. License or registration number of the instrument;

6. A summary that categorizes the XRF results into one (1) of three (3) categories: positive, negative or inconclusive; and

7. Recommendations for addressing inconclusive XRF results;

(I) A summary of laboratory results categorized as positive or negative and the name of each accredited laboratory that conducted the analysis (if applicable);

(J) Floor plans or sketches of the units inspected showing approximate test locations and any identifying number systems;

(K) A summary of the substrates tested including identification of component, component integrity, paint condition and color, and test identification numbers associated with the results; and

(L) The results of the inspection expressed in terms appropriate to the sampling method used.

(8) Time Frame for Submission of Reports. The inspection report shall be provided to the owner of the property within twenty (20) business days of lead inspection completion.

(9) Report Records Retention. All lead inspection reports shall be maintained by the licensed lead inspector or risk assessor who prepared the report for no fewer than three (3) years. The licensed lead inspector or risk assessor shall make copies of lead inspection reports available to OLLA upon request.

AUTHORITY: sections 701.301, 701.312 and 701.316, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. Original rule filed Aug. 19, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will not cost private entities more than $500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Lois Kollmeyer, Director, Division of Health Standards and Licensure, 920 Wildwood, Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

PROPOSED RULE

19 CSR 30-70.620 Work Practice Standards for a Lead Risk Assessment

PURPOSE: This rule delineates the standards to be followed by licensed risk assessors to conduct risk assessments in accordance with standards set forth in sections 701.300 through 701.338, RSMo, and 19 CSR 30-70.600 through 19 CSR 30-70.630.

(1) Licensure. All persons conducting risk assessments shall be licensed by the Office of Lead Licensing and Accreditation (OLLA) as set forth in sections 701.300 through 701.338, RSMo, and 19 CSR 30-70.110 through 19 CSR 30-70.200. Licensed risk assessors must present, upon request, proof of licensure in the form of the photo identification badges issued by OLLA.

(2) Conflict of Interest. OLLA recommends that licensed risk assessors conducting risk assessments for dwellings or child-occupied facilities should avoid potential conflicts of interest by not being contracted, subcontracted, or employed by a lead abatement contractor performing abatement activities on the same lead abatement project.

(3) Documented Methodologies for Conducting Risk Assessments.

(A) Licensed risk assessors shall use the following documented methodologies as referenced in this regulation for conducting risk assessments:

1. The U.S. Department of Housing and Urban Development (HUD) publication entitled, "Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing" (HUD Guidelines); and

2. The U.S. Environmental Protection Agency (EPA) publications entitled, "EPA Lead-Based Paint Risk Assessment Model Curriculum" (EPA Model Training); "Guidance on Residential Lead-Based Paint, Lead-Contaminated Dust and Lead-Contaminated Soil"; and "Residential Sampling for Lead: Protocols for Dust and Soil Sampling."

(B) Where a conflict exists between any of the aforementioned methodologies and any federal or state statute or regulation, or any city or county ordinance, the most stringent of these shall be adhered to by the licensed risk assessor.

(4) Collection and Laboratory Analysis of Samples. Any paint chip, dust, or soil samples collected pursuant to these work practice standards shall be—

(A) Collected by persons licensed by OLLA as a lead inspector or risk assessor; and

(B) Analyzed by a National Lead Laboratory Accreditation Program (NLLAP)-accredited laboratory.

(5) Sample Forms and Questionnaires. Sample forms and questionnaires may be found within the documented methodologies referenced in section (3) of this regulation. These samples may be used as a guide by Missouri licensed risk assessors.

(6) Lead Risk Assessment.

(A) A visual inspection for risk assessment of the dwelling or child-occupied facility shall be conducted to locate the existence of deteriorated lead-bearing substances, assess the extent and causes of the deterioration, and other potential lead hazards.

(B) Background information regarding the physical characteristics of the dwelling or child-occupied facility and occupant use patterns that may cause lead-bearing substance exposure to one (1) or more children age six (6) years and under shall be collected.

(C) Each surface with deteriorated lead-bearing surface coatings, which is determined using documented methodologies referenced in section (3) of this regulation, and a distinct painting history, shall be tested for the presence of lead. Each other surface determined, using documented methodologies, to be a potential lead hazard and having a distinct painting history, shall also be tested for the presence of lead.

(D) In dwellings, dust samples (either composite or single-surface samples) from the window troughs, sills and floors near friction or impact spots or in areas with deteriorated surface coatings shall be collected in all living areas where one (1) or more children age six (6) and under is most likely to come into contact with dust (i.e., children's play room, kitchen, bedrooms and bathrooms).

(E) For multi-family dwellings and child-occupied facilities, the samples required in subsection (6)(D) shall be taken. In addition, window and floor samples shall be collected in the following locations:

1. Common areas adjacent to the sampled residential dwelling or child-occupied facility; and

2. Other common areas in the building where the risk assessor determines that one (1) or more children age six (6) and under is likely to come into contact with dust.

(F) For child-occupied facilities, window and floor dust samples (either composite or single-surface samples) shall be collected in each room, hallway or stairwell utilized by one (1) or more children age six (6) and under and in other common areas in the child-occupied facility where the risk assessor determines that one or more children age six (6) and under is likely to come into contact with dust.

(G) Soil samples shall be collected and analyzed for lead concentrations in exterior play areas where bare soil is present and at dripline/foundation areas where bare soil is present.

(H) Any paint, dust, or soil sampling or testing shall be conducted using the documented methodologies referenced in section (3) of this regulation.

(I) The risk assessor shall prepare a risk assessment report as described in section (11) of this regulation.

(7) Lead Hazard Screen Risk Assessments.

(A) Background information regarding the physical characteristics of the dwelling or child-occupied facility and occupant use patterns that may cause lead-bearing substance exposure to one (1) or more children age six (6) years and under shall be collected.

(B) A visual inspection of the dwelling or child-occupied facility shall be conducted to—

1. Determine if any deteriorated lead-bearing substance is present; and
2. Locate at least two (2) dust sampling locations.

(C) If deteriorated paint is present, each surface with deteriorated paint and a distinct painting history shall be tested for the presence of lead.

(D) In dwellings, two (2) composite dust samples shall be collected, one from the floors and the other from the windows in rooms, hallways or stairwells where one (1) or more children age six (6) and under is most likely to come in contact with dust.

(E) In multi-family dwellings and child-occupied facilities, in addition to the floor and window samples required in (7)(D), the risk assessor shall also collect composite dust samples from common areas where one (1) or more children age six (6) and under is most likely to come into contact with dust.

(F) Dust, paint and soil sampling shall be conducted using the documented methodologies referenced in section (3) of this regulation.

(G) The risk assessor shall prepare a risk assessment report as required in section (11) of this regulation.

(8) Elevated Blood Lead Level (EBL) Investigation Risk Assessments.

(A) The risk assessor shall have the parents or guardians of the EBL child fill out a questionnaire (see HUD guidelines Table 16.2) prior to sampling. Environmental testing should be linked to the child's history and may include a prior residence or other areas frequented by the child.

(B) Background information regarding the physical characteristics of the dwelling or child-occupied facility and occupant use patterns that may cause lead-bearing substance exposure to one (1) or more children age six (6) years and under shall be collected.

(C) Each surface on the dwelling itself, furniture or play structures frequented by the child that has deteriorated surface coatings shall be tested for the presence of lead.

(D) Each chewable, impact and friction surface shall be tested for the presence of lead-bearing substances.

(E) Dust samples from areas frequented by the child, including play areas, porches, kitchens, bedrooms, and living and dining rooms shall be collected. Dust samples shall also be collected from automobiles, work shoes, and laundry rooms if occupational lead exposure is a possibility.

(F) Soil samples shall be collected from bare soil areas of play areas, areas near the foundation of the house, and areas from the yard. If the child spends significant time at a park or other public play area, samples should be collected from these areas, unless the area has already been sampled and documented.

(G) If necessary, water samples of the first-drawn water from the tap most commonly used for drinking water, infant formula, or food preparation shall be collected.

(H) All paint, dust, or soil collection and testing shall be conducted using the documented methodologies referenced in section (3) of this regulation.

(I) The risk assessor shall prepare a risk assessment report as required in section (11) of this regulation.

(9) Composite Dust Sampling. Composite dust sampling may only be conducted in the situations specified in sections (6) and (7) of this regulation. If such sampling is conducted, the following conditions shall apply:

(A) Composite dust samples shall consist of at least two (2) samples;

(B) Every component that is being tested shall be included in the sampling; and

(C) Composite dust samples shall not consist of subsamples from more than one (1) type of component.

(10) Sampling Results. Analytical sampling results which are received as a result of having conducted a risk assessment, an EBL investigation risk assessment, or lead hazard screen risk assessment shall be interpreted in accordance with the following for the matrices indicated:

(A) Paint. A paint chip sample which has a lead concentration that exceeds the values indicated below is considered to be a lead-bearing substance.

XRF—1.0 milligrams per square centimeter (mg/cm^2)
Laboratory—1.0 mg/cm^2 or 0.5% by weight (or 5,000 parts per million (PPM))

(B) Dust. A dust sample which has a lead concentration that exceeds the values indicated below is considered to be a lead-bearing substance.

Floors—50 micrograms per square foot ($\mu g/ft^2$)
Window Sills—250 $\mu g/ft^2$
Window Troughs—800 $\mu g/ft^2$

(C) Soil. A soil sample which has a lead concentration that exceeds the values indicated below is considered to be a lead-bearing substance.

Bare soil areas when children have access to the site, 400 PPM
Bare soil areas when children do not have access to the site, 2,000 PPM

(D) Water. A water sample which has a lead concentration that exceeds the value indicated below is considered to be a lead-bearing substance.

15 parts per billion (PPB) or 15 $\mu g/L$

(11) Reporting and Documentation. The licensed risk assessor shall prepare a risk assessment report which shall include the following information:

(A) Date of risk assessment;

(B) Address of each dwelling or child-occupied facility;

(C) Date dwelling or child-occupied facility was constructed;

(D) Apartment number, if applicable;

(E) Name, address and telephone number of each owner of each dwelling or child-occupied facility;

(F) Name, signature and license number of the licensed risk assessor conducting the assessment;

(G) Name, address and telephone number of the firm employing each licensed risk assessor, if applicable;

(H) Name, address and telephone number of each recognized laboratory conducting analysis of collected samples;

(I) Results of the visual inspection;

(J) Testing method and sampling procedure for paint analysis employed;

(K) Specific locations of each painted component tested for the presence of lead;

(L) All data collected from on-site testing, including quality control data;

(M) X-ray fluorescence (XRF) results, including the following (if applicable):

1. XRF manufacturer and model;

2. Serial number of XRF device used during the inspection;

3. Calibration verification from the beginning and end of each residential unit;

4. A copy of the XRF device user's certificate of training provided by the equipment manufacturer;

5. License or registration number of the XRF instrument;

6. A summary that categorizes the XRF results into one (1) of three (3) categories: positive, negative, or inconclusive; and

7. Recommendations for addressing inconclusive XRF results;

(N) All results of laboratory analysis on collected paint, soil and dust samples and the name of each accredited laboratory that conducted the analysis;

(O) Any other sampling results;

(P) Any background information collected pursuant to subsections (6)(B), (7)(A), and (8)(B) of this regulation;

(Q) To the extent that they are used as part of the lead-based paint hazard determination, the results of any previous inspections or analyses for the presence of lead-based paint, or other assessments of lead-bearing substance hazards;

(R) A description of the location, type, and severity of identified lead-bearing substance hazard and any other potential lead hazards; and

(S) A description of interim controls and/or abatement options for each identified lead hazard and a suggested prioritization for addressing each hazard. If the use of an encapsulant or enclosure is recommended, the report shall recommend a maintenance and monitoring schedule for the encapsulant or enclosure.

(12) Time Frame for Submission of Reports. The risk assessment report shall be provided to the owner of the property within twenty (20) business days of risk assessment completion.

(13) Report Records Retention. All risk assessment reports shall be kept and maintained by the risk assessor who prepared the report for no fewer than three (3) years. The licensed risk assessor shall make copies of risk assessment reports available to OLLA upon request.

AUTHORITY: sections 701.301, 701.312 and 701.316, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. Original rule filed Aug. 19, 1999.

PUBLIC ENTITY COST: This proposed rule will have a total annual cost to state agencies and political subdivisions of $49,587 (adjusted annually for inflation).

PRIVATE ENTITY COST: This proposed rule will have a total annual cost to private entities of $1,972,962 (adjusted annually for inflation).

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Lois Kollmeyer, Director, Division of Health Standards and Licensure, 920 Wildwood, Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

FISCAL NOTE
PUBLIC ENTITY COST

I. RULE NUMBER

Title: 19-DEPARTMENT OF HEALTH

Division: 30-Division of Health Standards & Licensure

Chapter: 70-Lead Abatement and Assessment Licensing, Training Accreditation

Type of Rule Making: New Rule

Rule Number and Name: 19 CSR 30-70.620-Work Practice Standards for a Lead Risk Assessment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
DOH	$39,337
Local School Districts	$10,250

III. WORKSHEET

4728 (number of licensed child-occupied day care facilities) x .052 (percentage of facilities that will undergo a risk assessment annually) = 250 (estimated number of facilities that will undergo a risk assessment annually) x 4 hrs (estimated number of hours to conduct the assessment) x $40 (hourly rate to conduct the assessment) = $39,337 (estimated aggregate cost to the DOH)

1232 (estimated number of public kindergartens) x .052 (percentage of facilities that will undergo a risk assessment annually) = 64 (estimated number of facilities that will undergo a risk assessment annually) x 4 hrs (estimated number of hours to conduct the assessment x $40 (hourly rate to conduct the assessment = $10,250.

$39,337 + $10,250 = $49,587 (Aggregate cost to public entities for annual risk assessments.)

IV. ASSUMPTIONS

Because legislation that went in to effect on August 28, 1998, repealed all similarly related statutes and regulations this fiscal note has been prepared as if there were no previous regulations and related fiscal notes.

Based both upon the requirements of the proposed work practices and the assumptions contained within the August 1996 EPA regulatory impact analysis, the DOH assumes that most lead based paint inspections, as they are currently performed, will be replaced with lead hazard screening when the paint is in good condition and risk assessments in deteriorated conditions.

The DOH believes the lead inspection currently being conducted in day care facilities throughout the State of Missouri meets the definition of a risk assessment under the current statute and under the proposed new

rule. The DOH makes the same assumption relating to inspections conducted in kindergartens and pre-kindergartens.

According to DOH data, in the State of Missouri there are 2343 non-church affiliated licensed family day care facilities, 1564 day care centers and 194 group home care facilities. There are 138 nursery schools and 489 church affiliated day care facilities. The total number of licensed child-occupied day care facilities is 4728. The DOH estimates that at some point all of the licensed day care facilities, and applicants for licensure, will undergo at a minimum a risk assessment conducted by a county/city licensed inspector as a part of the state licensure inspection.

In the year of 1998, 250 day care facilities, including applicants for state licensure, underwent a risk assessment (5.2 percent of the facilities). The DOH estimates that the current percentage of day care centers (250) will continue to undergo these risk assessments annually for an undetermined period of time.

Based upon DOH data, the time it currently takes to conduct a risk assessment in a day care facility, using the XRF Analysis and providing educational information to the owner, ranges from 2 to 4 hours, at a cost of $25 per hour. In the year of 1999, the hourly rate will increase to $40 per hour.

It is anticipated that DOH will incur the expense of risk assessments conducted in day care facilities.

The Missouri Department of Elementary & Secondary Education estimates there are 1,163 public kindergartens, and 69 public pre-kindergartens visited regularly by children that are age 6 or less, for a total of 1232. Using the same percentage of risk assessments which occur annually in child-occupied day care facilities (5.2 percent), the DOH estimates that 64 public kindergartens or pre-kindergartens will undergo assessments annually for an undetermined period of time. The DOH estimates the average hours and hourly rate used to determine the cost of an assessment in kindergartens and pre-kindergartens is comparable to the cost for child occupied day care facilities (4 hrs x $40 per hour).

The DOH assumes the expense of inspections in public schools will be incurred by the local school districts having jurisdiction over the schools that are inspected.

If there was more than one method to calculate a cost, the most expensive method was used.

It is anticipated the total aggregated cost per year will recur each year for the life of the rule. The duration of this rule cannot be estimated. The cost will be adjusted by 5% annually for inflation.

PRIVATE ENTITY COST

I. RULE NUMBER

Title: 19-DEPARTMENT OF HEALTH

Division: 30-Division of Health Standards & Licensure

Chapter: 70-Lead Abatement and Assessment Licensing, Training Accreditation

Type of Rule Making: New Rule

Rule Number and Name: 19 CSR 30-70.620-Work Practice Standards for a Lead Risk Assessment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimate n the aggregate as to the cost of compliance with the rule by the affected entities.
6190	Owners of Dwellings	$1,968,962
25	Private Schools	$4,000

III. WORKSHEET

Number of Owners of Dwellings:

1,794,340 (# of target private dwellings) x 75% (percentage of target private dwellings believed to contain lead-based paint) = 1,345,755 (target private). 0.0046 (estimated annual inspection rate) = 6190 (estimated # of target private dwellings annually).

FORMULA FOR ESTIMATING WEIGHTED COST OF LEAD HAZARD SCREEN

SINGLE FAMILY HOUSING

$41 (labor cost per hour) + $41 (incremental cost) x 1 (# hours) x 90% (weighted average) = $73.80. $23 (unit cost per dust sample) + $45 (incremental cost) x 2 (# samples required) x 90% (weighted average) = $122.40. 73.80 + $122.40 = $196.20 (total cost of screen in single family housing)

PLUS

MULT-FAMILY HOUSING

$41 (labor cost per hour) + $82 (incremental cost) x 2 (# hours) x 10% (weighted average) = $24.60. $23 (unit cost per dust sample) + $90 (incremental cost) x 4 (# samples required) x 10% (weighted average) = $45.20. $24.60 + $45.20 = $69.80 (total cost of screen in multi-family housing)

TOTAL WEIGHTED COST OF LEAD HAZARD SCREEN

$196.20 (single family housing) + $69.80 (multi-family housing) = $266.00

FORMULA FOR ESTIMATING WEIGHTED COST OF RISK ASSESSMENT

ACTIVITIES INCLUDED IN LEAD HAZARD SCREEN: (See Formula for Lead Hazard Screen = $266.00)

PLUS

SINGLE FAMILY HOUSING

$41 (labor cost per hour) + $41 (incremental cost) x 1 (# hours) x 90% (weighted average = $73.80. $23 (unit cost per soil sample) + $45 (incremental cost) x 2 (# samples required) x 90% (weighted average) = $122.40. $73.80 + $122.40 = $196.20 (total cost of assessment in single family housing)

PLUS

MULTI-FAMILY HOUSING

$41 (labor cost per hour) + $41 (incremental cost) x 1 (# hours) x 10% (weighted average) = $8.20. $23 (unit cost per soil sample) + $45 (incremental cost) x 2 (# samples required) x 10% (weighted average) = $13.60. $8.20 + $13.60 = $21.80 (total cost of assessment in multi-family housing)

TOTAL WEIGHTED COST OF RISK ASSESSMENT

$266.00 (activities included in lead hazard screen + $196.20 (single family housing) + $21.80 (multi-family housing) = $484.00

6190 (estimated number of target private dwellings annually) x 76.1% (estimated % of lead hazard screens annually in private dwellings) = 4711. 4711 (estimated number of lead hazard screens annually in single dwellings) x $266 (average cost for lead hazard screen) = $1,253,126 (estimated aggregate cost for lead hazards screens annually in target private dwellings annually)

6190 (estimated number of target private dwellings annually) x 23.9% (estimated # of risk assessments annually) = 1479. 1479 x $484 (estimated weighted average cost for risk assessments) = $715,836 (estimated aggregate cost for risk assessment in target private dwellings annually)

$1,253,126 + $715,836 = $1,968,962 (estimated aggregate cost annually for lead hazard screens and risk assessments in target private dwellings)

476 (estimated # of private kindergartens and pre-kindergartens) x 5.2% (estimated number of annual inspections in private and pre-kindergartens) = 25. 25 (estimated number of private schools that will undergo a risk assessment) x 4 hrs (estimated number of hours to conduct the risk assessment) x $40 (estimated hourly rate to conduct the assessment) = $4,000 (estimated aggregate cost annually for risk assessments in private kindergartens and pre-kindergartens)

IV. ASSUMPTIONS

Because legislation that went in to effect on August 28, 1998, repealed all similarly related statutes and regulations this fiscal note has been prepared as if there were no previous regulations and related fiscal notes.

Based both upon the requirements of the proposed work practices and the assumptions contained within the August 1996 EPA regulatory impact analysis, the DOH assumes that most lead based paint inspections, as

they are currently performed, will be replaced with the less expensive lead hazard screening when the paint is in good condition and risk assessments when paint is in deteriorated conditions.

According to a 1996 report submitted by the Missouri Commission on Lead Poisoning (Commission), the total number of Missouri residential structures built during or before 1939 through 1979 is 1,796,683. (Note: The Commission's numbers are based upon U.S. Bureau of Census-1990 data.) For the purpose of this fiscal note, these dwellings are considered "target housing." (Note: The Commission estimates that lead risk is prevalent in buildings completed before 1978. However, the U.S. Bureau of Census 1990 data is grouped into houses built in 1979 or before. The DOH estimates that the percentage of houses built in the year of 1979 is minimal, when compared to the number of houses in Missouri which were built during the period from 1939 (or before) through 1978. Therefore, DOH estimates are based upon the 1990 U.S. Bureau of Census data pertaining to houses built in Missouri in 1979 or before.) The total number of dwellings reported by the Commission are presumed to include the facilities involving licensed family day care (the number of these facilities licensed in Missouri is 2343. The total number of licensed family day care facilities--2343--is deducted from the totals here and will be used as a part of the public entity cost estimate. Therefore, excluding the number of licensed day care facilities, the DOH estimates that the total number of family dwellings built in Missouri in 1979 or before is 1,794,340 (1,796,683 - 2343). The Commission estimates that 75 percent of these houses contain lead-based paint and thus are considered target housing. The DOH estimates that the number of family dwellings in Missouri that should be considered target housing is 1,345,755 (1,794,340 x 75%).

The EPA, in its August 1996 Regulatory Impact Analysis, uses the Massachusetts model for determining its annual inspection rate of 0.0046. Since Massachusetts is one of the first states to initiate and enforce compliance standards pertaining to lead-based paint activities, the DOH is also using this inspection rate (0.0046) to estimate the total number of lead hazard screens and/or risk assessments that will be conducted annually within the State of Missouri. Based upon the EPA's inspection rate, the DOH estimates that 6190 lead hazard screens or risk assessments will occur annually in target housing within the State of Missouri (1,345,755 x 0.0046).

The EPA, in its August 1996 Regulatory Impact Analysis pertaining to target housing assumes that a lead hazard screen is less expensive than a risk assessment. In its analysis the EPA estimates that 76.1 percent of family dwellings in the target housing category have paint in good condition and thus are eligible for the less expensive lead hazard screening and 23.9 percent have paint in deteriorated condition and should undergo a risk assessment. Based upon the EPA's analysis, the DOH estimates that in Missouri there will be 4711 lead hazard screens and 1479 risk assessments conducted annually, for a total of 6190 private dwellings being involved annually in either an assessment or a screening. The DOH estimates the number of lead hazard screens and risk assessments occurring during the first year under the proposed new regulations will continue to occur in subsequent years until the problem is resolved.

The DOH has no data pertaining to the number of dwellings by numbers of units that exist within the State of Missouri. Due to the lack of this data, the DOH uses total numbers of dwelling built in Missouri before 1979 to obtain estimated numbers for target housing. The DOH's estimates related to the cost of lead hazard screens and risk assessment are based upon the weighted average of the costs for single-family (about 90%) and multi-family housing (about 10%), including estimated total incremental costs, contained in EPA's August 1996 Regulatory Impact Analysis to determine the average cost in target housing for lead hazard screen inspections ($266) and the average cost for risk assessment ($484). The DOH assumes the cost of lead inspections will be incurred by the owner of the dwelling.

The Missouri Department of Elementary & Secondary Education estimates there are 338 private kindergartens visited regularly by children that are age 6 or less. The actual number of private pre-kindergartens is unknown; however, the DOH estimates there are, at a minimum, twice as many private kindergartens as there are public pre-kindergartens (69 x 2 = 138). Using the same percentage of lead inspections that occur annually in licensed day care facilities (5.2 percent) and the same average cost estimates used for lead inspections in licensed day care centers (4 hrs. x $40) the DOH estimates that 25

private kindergartens and pre-kindergartens will undergo lead inspections annually at a cost of $4000 (4 hrs. x $40 x 25 facilities).

If there was more than one method to calculate a cost, the most expensive method was used.

It is anticipated the total aggregated cost per year will recur each year for the life of the rule. The duration of this rule cannot be estimated. The cost will be adjusted by 5% annually for inflation.

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

PROPOSED RULE

19 CSR 30-70.630 Lead Abatement Work Practice Standards

PURPOSE: This rule delineates the criteria for conducting lead abatement projects in target housing and child-occupied facilities in accordance with standards set forth in sections 701.300 through 701.338, RSMo, and 19 CSR 30-70.600 through 19 CSR 30-70.630.

(1) Licensure. All persons conducting lead abatement shall be licensed as set forth in sections 701.300 through 701.338, RSMo, and 19 CSR 30-70.110 through 19 CSR 30-70.200. Licensed lead abatement professionals must present, upon request, proof of licensure in the form of the photo identification badge issued by the Office of Lead Licensing and Accreditation (OLLA).

(2) Conflict of Interest. OLLA recommends that any person or firm conducting a lead abatement project should avoid potential conflicts of interest by not providing clearance sampling services, inspection, or risk assessment services for that same abatement project.

(3) Documented Methodologies for Conducting Lead Abatement Projects.

(A) All licensed lead abatement workers and supervisors may use the following documented methodologies, but shall, at a minimum, follow the work practice standards presented in this regulation for conducting lead abatement projects:

1. The U.S. Department of Housing and Urban Development (HUD) publication entitled, "Guidelines for the Evaluation and Control of Lead-based Paint Hazards in Housing" (HUD Guidelines); and

2. The U.S. Environmental Protection Agency publications entitled "Guidance on Residential Lead-Based Paint, Lead-Contaminated Dust, and Lead-Contaminated Soil"; and "Residential Sampling for Lead: Protocols for Dust and Soil Sampling."

(B) Where a conflict exists between any of the aforementioned informational resources and any federal or state statute or regulation, or any city or county ordinance, the most stringent of these shall be adhered to by licensed lead abatement workers and supervisors.

(4) Notification. Any person or lead abatement contractor conducting a lead abatement project in target housing or in any child-occupied facility shall submit a notification to the department at least ten (10) business days prior to the onset of the lead abatement project.

(A) The notification shall be mailed with a check or money order made payable to the Missouri Department of Health for the nonrefundable fee of twenty-five dollars ($25) to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The notification form provided by the department shall include the following:

1. The street address, city, state, zip code and county of each location where lead abatement will occur;

2. The name, address and telephone number of the property owner;

3. An indication of the type of structure being abated (i.e., single-family or multi-family dwelling and/or child-occupied facility);

4. The date of the onset of the abatement project;

5. The estimated completion date of the abatement project;

6. The work days and hours of operation that the abatement project will be conducted;

7. The name, address, telephone number and license number of the lead abatement contractor;

8. The name and license number of each lead abatement supervisor;

9. The name and license number of each lead abatement worker;

10. The type(s) of abatement strategy(ies) that will be utilized (i.e., encapsulation, replacement, and/or removal); and

11. The signature of each lead abatement supervisor which certifies that all information provided in the project notification is complete and true to the best of the supervisor's knowledge.

(5) Emergency Notification. If the lead abatement contractor is unable to comply with the ten (10)-day notification period in the event of an emergency situation as defined in 19 CSR 30-70.600, the lead abatement contractor shall—

(A) Notify OLLA by telephone, facsimile, or electronic mail within twenty-four (24) hours of the onset of the lead abatement project; and

(B) Submit the written notification and notification fee as prescribed in section (4) of this regulation no more than five (5) business days after the onset of the lead abatement project.

(6) Renotification. A renotification shall be submitted to OLLA at least twenty-four (24) hours prior to any changes from the original project notification.

(A) A renotification form shall be mailed to the Missouri Department of Health, Office of Lead Licensing and Accreditation, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The renotification form provided by the department shall include the following:

1. The street address, city, state, zip code and county of each location where abatement will occur;

2. The name, address and telephone number of the property owner;

3. An indication of the type of structure being abated (i.e., single-family or multi-family dwelling and/or child-occupied facility);

4. The name, address, telephone number and license number of the lead abatement contractor;

5. A list of changes to the original notification which may include the following:

A. The date of the onset of the abatement project;

B. The estimated completion date of the abatement project;

C. The work days and hours of operation that the abatement project will be conducted;

D. The name, address, telephone number and license number of the lead abatement contractor;

E. The name and license number of each lead abatement supervisor;

F. The name and license number of each lead abatement worker; and

G. The type(s) of abatement strategy(ies) that will be utilized (i.e., encapsulation, replacement, and/or removal); and

6. The signature of the lead abatement supervisor which certifies that all information provided in the project renotification is complete and true to the best of the supervisor's knowledge.

(7) Occupant Protection Plan.

(A) General Scope. Occupants of dwelling units undergoing lead abatement activities shall be protected from exposure to lead

hazards while lead abatement work is being performed. If occupants remain in the dwelling during a lead abatement project, the lead abatement supervisor shall ensure that occupants have safe, uncontaminated access to nonregulated areas. To ensure occupant safety, a written occupant protection plan shall be developed for all abatement projects. The occupant protection plan shall describe the measures and management procedures that will be taken during the abatement to protect the building occupants from exposure to any lead hazards. The purpose of occupant protection planning is to—

1. Evaluate the necessity of removing occupants from the residence during lead abatement activities;

2. Prevent uncontrolled release of dust and debris beyond the abatement work area;

3. Prevent entry of unlicensed individuals into the regulated area; and

4. Ensure that clearance levels have been met prior to reoccupancy by building residents.

(B) The occupant protection plan shall meet the following requirements:

1. Be unique to each lead abatement project;

2. Be developed and implemented prior to commencement of the lead abatement project;

3. Describe the work practices and strategies that will be taken during the lead abatement project to protect the building occupants from exposure to any lead hazards;

4. Be written by the licensed lead abatement supervisor responsible for the project;

5. Include the results of any lead inspections or risk assessments completed prior to the commencement of the lead abatement project;

6. The occupant protection plan shall be provided to an adult occupant of each dwelling or dwelling unit being abated, and the property owner, or property owner's designated representative, prior to the commencement of the lead abatement project; and

7. The occupant protection plan shall be submitted to OLLA with the lead abatement project notification.

(8) Post-Abatement Project Report. A post-abatement project report shall be prepared by a licensed lead abatement supervisor or licensed project designer and shall be provided to the property owner within twenty (20) business days of the abatement project completion. The licensed supervisor or project designer shall make copies of the report available to OLLA upon request. The report shall include the following information:

(A) The project location and address;

(B) The actual start and completion dates of the abatement project;

(C) The name, address, telephone number and license number of the contractor conducting the lead abatement project;

(D) The name and license number of each lead abatement supervisor and/or project designer;

(E) The name and license number of each lead abatement worker;

(F) The name and license number of each lead inspector or risk assessor responsible for clearance testing;

(G) The date and the results of clearance testing, and the name of each National Lead Laboratory Accreditation Program (NLLAP)-accredited laboratory that conducted the analyses; and

(H) A detailed written description of the lead abatement project, including abatement methods used, locations of rooms and/or components where abatement occurred, reason for selecting particular abatement methods for each component, and any suggested monitoring of encapsulant or enclosure.

(9) Lead Abatement Project Requirements.

(A) General.

1. A licensed lead abatement supervisor is required for each abatement project and shall be on-site during all work site preparation, abatement activities and during post-abatement cleanup of work areas.

2. The lead abatement supervisor, as well as the lead abatement contractor employing that lead abatement supervisor, shall ensure that all abatement project activities are conducted according to the requirements of these work practice standards for conducting lead-bearing substance activities (19 CSR 30-70.600 through 19 CSR 30-70.630) and all federal, state and local laws, regulations or ordinances pertaining to lead-bearing substance activities.

3. The lead abatement supervisor shall have on-site a list of all licensed lead abatement workers, which shall include their names and license numbers, working on the current project.

4. All abatement project activities shall be performed by persons currently licensed by OLLA as lead abatement workers and/or lead abatement supervisors. These people shall present, upon request, proof of licensure in the form of the photo identification badge issued by OLLA.

5. A written occupant protection plan shall be developed prior to all abatement projects according to section (7) of this regulation.

6. Access to the regulated area shall be limited to OLLA licensed lead professionals or department-authorized persons.

7. All waste generated from a lead-based paint abatement project shall be disposed of in accordance with the requirements of Environmental Protection Agency (EPA), Missouri Department of Natural Resources and any other applicable federal, state and local laws.

(B) Prohibited Lead Abatement Project Strategies. The following lead abatement project strategies are prohibited:

1. Open-flame burning or torching of lead-bearing substances;

2. Machine sanding or grinding or abrasive blasting or sandblasting of lead-bearing substances without containment and high efficiency particulate air (HEPA)-vacuum exhaust control;

3. Hydroblasting or pressurized water washing of lead-bearing substances without containment and water collection and filtering;

4. Heat guns operating above one thousand one hundred degrees Fahrenheit (1,100°F);

5. Methylene chloride based chemical strippers;

6. Solvents that have flashpoints below one hundred forty degrees Fahrenheit (140°F);

7. Dry scraping strategies unless in conjunction with heat guns or around electrical outlets or when treating defective paint spots totaling no more than two (2) square feet in any one room, hallway or stairwell or totaling no more than twenty (20) square feet on exterior surfaces;

8. Enclosure strategies where the barrier is not warranted by the manufacturer to last at least twenty (20) years under normal conditions, or where the primary barrier is not a solid barrier;

9. Encapsulation strategies where the encapsulant is not warranted by the manufacturer to last at least twenty (20) years under normal conditions, or where the encapsulant has been improperly applied; and

10. Exterior abatement project activities when constant wind speeds are greater than ten (10) miles per hour.

(C) Permissible Lead Abatement Project Strategies. Strategies that are permissible for lead abatement projects are as follows: replacement, enclosure, encapsulation, or removal. Any abatement strategy not specified herein shall be submitted to the Missouri Department of Health, Office of Lead Licensing and Accreditation, P.O. Box 570, Jefferson City, MO 65102-0570 for evaluation and approval prior to use.

1. Replacement. When conducting a lead abatement project using the replacement strategy, these minimum requirements shall be met—

A. The site shall be prepared by first establishing a regulated area using fencing, barrier tape or other appropriate barriers. The regulated area shall be defined to prevent unlicensed and/or unauthorized personnel from approaching closer than twenty feet (20') to the replacement operation;

B. Signs shall be posted at all entrances to the regulated area, and shall include the words "WARNING: LEAD AREA, POISON-NO SMOKING OR EATING" in bold lettering not smaller than two inches (2") tall with additional language prohibiting entrance to the regulated area by unauthorized personnel;

C. Any heating and cooling systems within the regulated area shall be shut down and the vents sealed with six (6)-mil poly to prevent lead dust accumulation within the system;

D. All items shall be cleaned within the regulated area by HEPA vacuuming and/or wet wiping with a cleaning solution. Items shall then be removed from the area, or covered with six (6)-mil poly and sealed with duct tape;

E. At least one (1) layer of six (6)-mil, or thicker, poly shall be placed on the floor at the base of the component and extend at least ten feet (10') beyond the perimeter of the component to be replaced;

F. The component, and the area immediately adjacent to the component, shall be thoroughly wetted using a garden sprayer, airless mister, or other appropriate means to reduce airborne dust;

G. After removal of the component, the surface behind the removed component shall be thoroughly wetted to reduce airborne dust;

H. The component shall be wrapped or bagged completely in six (6)-mil poly and sealed with duct tape to prevent loss of debris or dust; and

I. Prior to installing a new component, the area of replacement shall be cleaned by HEPA vacuuming. After replacement is complete, the regulated area shall be cleaned by vacuuming with a HEPA vacuum, wiping down all surfaces with a cleaning solution, rinsing all surfaces, and then HEPA vacuuming the area again. Cleaning shall begin at the end of the work area farthest from the main entrance to the area and from the top to the bottom of the regulated area.

2. Enclosure. When conducting a lead abatement project using the enclosure strategy, these minimum requirements shall be met—

A. The site shall be prepared by first establishing a regulated area using fencing, barrier tape or other appropriate barriers. The regulated area shall be defined to prevent unlicensed and/or unauthorized personnel from approaching closer than twenty feet (20') to the enclosure operation;

B. Signs shall be posted at all entrances to the regulated area, and shall include the words "WARNING: LEAD AREA, POISON-NO SMOKING OR EATING" in bold lettering not smaller than two inches (2") tall with additional language prohibiting entrance to the regulated area by unauthorized personnel;

C. Any heating and cooling systems within the regulated area shall be shut down and the vents sealed with six (6)-mil poly to prevent lead dust accumulation within the system;

D. All items shall be cleaned within the regulated area by HEPA vacuuming and/or wet wiping with a cleaning solution. Items shall then be removed from the area or covered with six (6)-mil poly and sealed with duct tape;

E. At least one (1) layer of six (6)-mil, or thicker, poly shall be placed on the floor at the base of the component and extend at least ten feet (10') beyond the perimeter of the component to be enclosed;

F. The surface to be enclosed shall be labeled (behind the enclosure), horizontally and vertically, approximately every two feet (2') with a warning, "Danger: Lead-Based Paint," in permanent ink;

G. The enclosure material shall be applied directly onto the painted surface, or a frame shall be constructed of wood or metal, using nails, staples, or screws. Glue may be used in conjunction with the aforementioned fasteners, but not alone;

H. The material used for the enclosure barrier shall be solid and rigid enough to provide adequate protection. Materials including, but not limited to, wall papers, contact paper, films, folding walls, and drapes do not meet this requirement;

I. Enclosure systems and their adhesives shall be designed to last at least twenty (20) years;

J. The substrate or building structure to which the enclosure is fastened shall be sufficient structurally to support the enclosure barrier for at least twenty (20) years. Deterioration such as mildew, water damage, dry rot, termite damage or any significant structural damage may impair the enclosure from remaining dust tight;

K. Preformed steel, aluminum, vinyl or other construction material may be used for window frames, exterior siding, trim casings, column enclosures, moldings, or other similar components if they can be sealed dust tight;

L. A material equivalent to one-fourth inch (1/4") rubber or vinyl may be used to enclose stairs;

M. The seams, edges, and fastener holes shall be sealed with caulk or other sealant, providing a dust-tight system;

N. All equipment used in the regulated area shall be thoroughly cleaned with a cleaning solution and/or vacuumed with a HEPA vacuum prior to removal from the regulated area;

O. Prior to clearance, the installed enclosure and surrounding regulated area shall be cleaned by vacuuming with a HEPA vacuum, wiping down all surfaces with a cleaning solution, rinsing all surfaces, and then HEPA vacuuming the area again. Cleaning shall begin at the end of the work area farthest from the main entrance to the area and from the top to the bottom of the regulated area; and

P. It is recommended that a visual evaluation of the enclosure's integrity be conducted and documented by the building owner or the building owner's representative at least every year or immediately after any fire, water, or structural damage. In child-occupied facilities, it is recommended that a licensed risk assessor inspect all enclosures every three (3) years, or whenever the owner's visual evaluation indicates a potential for increased lead hazard exposure.

3. Encapsulation.

A. The encapsulation strategy of lead abatement shall not be used on the following:

(I) Friction surfaces—such as window sashes and parting beads, door jambs and hinges, floors, and door thresholds;

(II) Deteriorated components—including rotten wood, rusted metal, spalled or cracked plaster, or loose masonry;

(III) Impact surfaces, such as door stops, window wells and headers;

(IV) Deteriorated surface coatings such that the adhesion or cohesion of the surface coating is uncertain or indeterminable; and

(V) Incompatible coatings.

B. When conducting a lead abatement project using the encapsulation strategy, these minimum requirements shall be met—

(I) Encapsulant selection shall be limited to those that are warranted by the manufacturer to last for at least twenty (20) years and comply with fire, health and environmental regulations;

(II) Surfaces to be encapsulated shall have sound structural integrity with no loose, chipping, peeling, or chalking paint and no dust accumulation that cannot be cleaned, and shall be prepared and applied according to the manufacturer's recommendations;

(III) The site shall be prepared by first establishing a regulated area using fencing, barrier tape or other appropriate barriers. The regulated area shall be designated as to prevent unlicensed and/or unauthorized personnel from approaching closer than twenty feet (20') to the encapsulation operation;

(IV) Signs shall be posted at all entrances to the regulated area, and shall include the words "WARNING: LEAD AREA, POISON-NO SMOKING OR EATING" in bold lettering not smaller than two inches (2") tall with additional language prohibiting entrance to the regulated area by unauthorized personnel;

(V) Any heating and cooling systems within the regulated area shall be shut down and the vents sealed with six (6)-mil poly to prevent lead dust accumulation within the system;

(VI) All items shall be cleaned within the regulated area by HEPA vacuuming and/or wet wiping with a cleaning solution. Items shall then be removed from the area, or covered with six (6)-mil poly sheeting and sealed with duct tape;

(VII) At least one (1) layer of six (6)-mil, or thicker, poly shall be placed on the ground at the base of the component and extend at least ten feet (10') beyond the perimeter of the component to be encapsulated;

(VIII) A patch test shall be conducted prior to general application to determine the adhesive and cohesive properties of the encapsulant on the surface to be encapsulated (see the HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing, Chapter 13);

(IX) After the manufacturer's recommended curing time, the entire encapsulated surface shall be inspected by a licensed lead abatement supervisor or a licensed project designer. Any unacceptable areas shall be evaluated to determine if a complete failure of the system is indicated, or whether the system can be patched or repaired. Unacceptable areas are evidenced by delamination, wrinkling, blistering, cracking, cratering, and bubbling of the encapsulant;

(X) After the encapsulation is complete, the regulated area shall be cleaned by vacuuming with a HEPA vacuum, wiping down all surfaces with a cleaning solution, rinsing all surfaces, and then HEPA vacuuming the area again. Cleaning shall begin at the end of the work area farthest from the main entrance to the area and from the top to the bottom of the regulated area;

(XI) All equipment used in the regulated area shall be thoroughly cleaned with a cleaning solution and/or vacuumed with a HEPA vacuum prior to removal from the regulated area; and

(XII) It is recommended that a visual evaluation of the encapsulant's integrity be conducted and documented by the building owner or the building owner's representative at least every year or immediately after any fire, water, or structural damage. In child-occupied facilities, it is recommended that a licensed risk assessor inspect all enscapsulations every three (3) years, or whenever the owner's visual evaluation indicates a potential for increased lead hazard exposure.

4. Removal.

A. Acceptable removal strategies include:

(I) Manual wet strategies—Manual wet scraping or manual wet sanding is acceptable for removal of lead surface coatings;

(II) Mechanical removal strategies—Power tools that are HEPA-shrouded or locally exhausted are acceptable removal strategies for lead surface coatings. HEPA-shrouded or exhausted mechanical abrasion devices such as sanders, saws, drills, rotopeens, vacuum blasters, and needle guns are acceptable;

(III) Chemical removal strategies—Chemical strippers shall be used in compliance with manufacturer's recommendations;

(IV) Soil abatement—When soil abatement is conducted, the lead-bearing soil shall be removed, tilled, or permanently covered in place as indicated in the following subparts:

(a) Removed soil shall be replaced with fill material containing no more than one hundred parts per million (100) ppm of total lead. If the fill material exceeds one hundred (100) ppm total lead, the fill material will be acceptable only if the lead solubility is less than five (5) ppm. Soil that is removed shall not be reused as topsoil in another residential yard or child-occupied facility;

(b) If tilling is selected, soil in a child-accessible area shall be tilled to a depth which results in no more than four hundred (400) ppm total lead of the homogenized soil, or other concentrations approved by the department. Soil in an area not accessible to children shall be tilled to a depth which results in no more than two thousand (2,000) ppm total lead of the homogenized soil or other concentrations approved by the department;

(c) Permanent soil coverings include solid materials such as pavement or concrete, which separate the soil from human contact. Grass, mulch and other landscaping materials are not considered permanent soil covering; and

(d) Soil abatement shall be conducted to prevent lead contaminated soil from being blown from the site and/or from being carried away by water run-off or through percolation to groundwater.

B. Interior removal. When conducting a lead abatement project using the removal strategy on interior surfaces, these minimum requirements shall be met—

(I) The site shall be prepared by first establishing a regulated area using fencing, barrier tape or other appropriate barriers. The regulated area shall be defined to prevent unlicensed and/or unauthorized personnel approaching closer than twenty feet (20') to the removal operation;

(II) Signs shall be posted at all entrances to the regulated area, and shall include the words "WARNING: LEAD AREA, POISON-NO SMOKING OR EATING" in bold lettering not smaller than two inches (2") tall with additional language prohibiting entrance to the regulated area by unauthorized personnel;

(III) Any heating and cooling systems within the regulated area shall be shut down and the vents sealed with six (6)-mil poly to prevent lead dust accumulation within the system;

(IV) All items within the regulated area shall be cleaned by HEPA vacuuming and/or wet wiping with a cleaning solution. Items shall then be removed from the area, or covered with six (6)-mil poly and sealed with duct tape;

(V) All windows below and within the regulated area shall be closed;

(VI) Critical barrier containment shall be constructed;

(VII) At least two (2) layers of six (6)-mil, or thicker, poly shall be placed on the floor at the base of the component and extend at least ten feet (10') beyond the perimeter of the component being abated (removal by the chemical strategy may require chemical resistant floor cover; follow manufacturer's recommendations);

(VIII) All equipment used in the regulated area shall be thoroughly cleaned with a cleaning solution and/or vacuumed with a HEPA vacuum prior to removal from the regulated area;

(IX) At the end of each work shift, the top layer of six (6)-mil poly shall be removed and used to wrap and contain the debris generated by the shift. The six (6)-mil poly shall then be sealed with duct tape and kept in a secured area until final disposal. The second layer of six (6)-mil poly shall be HEPA vacuumed, left in place and used during the next shift. A single layer of six (6)-mil poly shall be placed on this remaining poly before abatement resumes; and

(X). After the removal is complete, the regulated area shall be cleaned by vacuuming with a HEPA vacuum, wiping down all surfaces with a cleaning solution, rinsing all surfaces, and then HEPA vacuuming the area again. Cleaning shall begin at the end of the work area farthest from the entrance to the area and from the top to the bottom of the regulated area.

C. Exterior removal. When conducting a lead abatement project using the removal strategy on exterior surfaces, these minimum requirements shall be met—

(I) The site shall be prepared by first establishing a regulated area using fencing, barrier tape or other appropriate barriers. The regulated area shall be designated as to prevent unlicensed and/or unauthorized personnel from approaching closer than twenty feet (20') to the removal operation;

(II) Signs shall be posted at all entrances to the regulated area, and shall include the words "WARNING: LEAD AREA, POISON-NO SMOKING OR EATING" in bold lettering not smaller than two inches (2") tall with additional language prohibiting entrance to the regulated area by unauthorized personnel;

(III) All movable items shall be moved twenty feet (20') from working surfaces. Items that cannot be readily moved twenty feet (20') from working surfaces shall be covered with six (6)-mil poly and sealed with duct tape;

(IV) At least one (1) layer of six (6)-mil, or thicker, poly shall be placed on the ground and extend at least ten feet (10') from the abated surface plus another five feet (5') out for each additional ten feet (10') in surface height over twenty feet (20'). In addition, the poly shall—

(a) Be securely attached to the side of the building with cover provided to all ground plants and shrubs in the regulated area;

(b) Be protected from tearing or perforating;

(c) Contain any water, including rainfall, which may accumulate during the abatement; and

(d) Be weighted down to prevent disruption by wind gusts;

(V) All windows in the regulated area and all windows below and within twenty feet (20') of working surfaces shall be closed. It is recommended that the windows of adjacent structures within twenty feet (20') also be closed;

(VI) Work shall cease if constant wind speeds are greater than ten (10) miles per hour;

(VII) Work shall cease and cleanup shall occur if rain begins;

(VIII) All equipment used in the regulated area shall be thoroughly cleaned with a cleaning solution and/or vacuumed with a HEPA vacuum prior to removal from the regulated area; and

(IX) The regulated area shall be HEPA vacuumed and cleaned of lead-based paint chips, poly and other debris generated by the abatement project work at the end of each workday. Debris shall be kept in a secured area until final disposal.

(10) Post-Abatement Clearance Procedures. The following post-abatement clearance procedures shall be performed only by a licensed lead inspector or risk assessor:

(A) Following abatement, a visual inspection shall be performed to determine if deteriorated painted surfaces and/or visible amounts of dust, debris or residue are still present. If deteriorated painted surfaces or visible amounts of dust, debris or residues are present, these conditions must be eliminated prior to the continuation of the clearance procedures;

(B) Following the visual inspection and any post-abatement cleanup required by subsection (10)(A) of this regulation, clearance sampling for lead-contaminated dust and/or soil shall be conducted;

(C) Dust and soil sampling shall be conducted using the documented methodologies referenced in section (3) of this regulation;

(D) Dust samples for clearance purposes shall be taken a minimum of one (1) hour after completion of final post-abatement cleanup activities;

(E) The licensed lead inspector or risk assessor shall compare the residual lead level from each dust and/or soil sample with clearance levels specified in section (11) of this regulation for lead in dust on floors, windows and soil;

(F) If the lead levels in a clearance dust sample exceed the clearance levels, all the components represented by the failed dust sample shall be recleaned and tested until clearance levels are met;

(G) If the lead levels in a soil clearance sample exceed the clearance levels, the soil shall be abated until a composite soil sample meets clearance levels; and

(H) In a multi-family dwelling with similarly constructed and maintained residential dwellings, random sampling for the purposes of clearance may be conducted provided—

1. The licensed individuals who abate or clean the residential dwellings do not know which residential dwelling will be selected for the random sample;

2. A sufficient number of residential dwellings are selected for dust sampling to provide a ninety-five percent (95%) level of confidence that no more than five 5 percent (5%) or fifty (50) of the residential dwellings (whichever is smaller) in the randomly sampled population exceed the appropriate clearance levels; and

3. The randomly selected residential dwellings shall be sampled and evaluated for clearance according to the procedures found in subsections (10)(A) through (10)(G) of this regulation.

(11) Clearance Levels. For each respective media, the following clearance levels shall be met for a lead-abatement project to be considered complete (if background lead levels are lower than the following clearance levels, clearance is not complete until background values are met):

(A) Dust samples—

Media	Clearance Level
Floors	50 $\mu g/ft^2$
Interior window sills	250 $\mu g/ft^2$
Window troughs	800 $\mu g/ft^2$

(B) Soil samples—

Media	Clearance Level
Bare soil (dwelling perimeter and yard)	2,000 ppm
Bare soil (small high contact areas, such as sandboxes and gardens)	400 ppm

AUTHORITY: sections 701.301, 701.309, 701.312 and 701.316, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. Original rule filed Aug. 19, 1999.

PUBLIC ENTITY COST: This proposed rule will have a total annual cost to state agencies or political subdivisions of $240,450 (adjusted annually for inflation).

PRIVATE ENTITY COST: This proposed rule will have a total annual cost to private entities of $31,035,000 (adjusted annually for inflation).

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Lois Kollmeyer, Director, Division of Health Standards and Licensure, 920 Wildwood, Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

FISCAL NOTE
PUBLIC ENTITY COST

I. RULE NUMBER

Title: 19-DEPARTMENT OF HEALTH

Division: 30-Division of Health Standards & Licensure

Chapter: 70-Lead Abatement and Assessment Licensing, Training Accreditation

Type of Rule Making: New Rule

Rule Number and Name: 19 CSR 30-70.630-Lead Abatement Work Practice Standards

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
10- Public School Districts or Boards	$80,000 to $240,000
10- Public School Districts or Boards	$450 - Project Notification Fees to OLLA

III. WORKSHEET

64 (estimated number of risk assessments conducted annually in public kindergartens/pre-kindergartens) x 16.2% (estimated percentage of facilities that will be considered lead risk hazards = 10 (estimated number that will undergo a lead abatement project) x $4,000 to $12,000 (estimated cost of time and labor to abate a single-family dwelling) x 2 (estimate that cost in a complex facility costs twice as much) = $80,000 to $240,000 (aggregate cost range annually)

10 x $45 (total cost of lead abatement project notification to OLLA) = $450 annually

IV. ASSUMPTIONS

Because legislation that went in to effect on August 28, 1998, repealed all similarly related statutes and regulations this fiscal note has been prepared as if there were no previous regulations and related fiscal notes.

The DOH assumes that the public entity (local school district or school board) will be responsible for lead abatement projects performed in public kindergartens and pre-kindergartens.

The DOH estimates that of the total number of public kindergartens and pre-kindergartens (1232) 5.2% will undergo a risk assessment annually (64).

Based upon EPA's August 1996 "Regulatory Impact Analysis," the DOH estimates that 16.2% (10) of these facilities inspected annually will be considered lead risk hazards. The DOH estimates that 100% of those facilities assessed to be a lead risk hazard will undergo a lead abatement.

Based upon EPA's August 1996 "Regulatory Impact Analysis," abatements in child-occupied facilities are assumed to be permanent. Thus the prevalence of lead is likely to decline over the years.

Based upon the EPA's analysis, the DOH assumes the cost to abate large size and more complex constructed facilities such as buildings housing kindergartens and day care centers will require time and labor resources equivalent to two target housing abatement jobs. According to the EPA analysis, the estimated cost of target housing abatement jobs range across the United States from $2300 to $5000 per unit to abate apartments and from $4000 to $12,000 in single-family housing.

The DOH assumes that licensed lead abatement contractors will undergo the cost of notifying OLLA of planned industrial lead abatement projects. It is estimated that the cost to provide project notification to OLLA will be $45 per project ($25-notification fee and $20-cost to complete the notification form, i.e., contractors estimated hourly wage ($40) x the estimated amount of time (30 min) to complete the OLLA notification form).

If there was more than one method to calculate a cost, the most expensive method was used.

It is anticipated the total aggregated cost per year will recur each year for the life of the rule. The duration of this rule cannot be estimated. The cost will be adjusted by 5% annually for inflation.

PRIVATE ENTITY COST

I. RULE NUMBER

Title: 19-DEPARTMENT OF HEALTH

Division: 30-Division of Health Standards & Licensure

Chapter: 70-Lead Abatement and Assessment Licensing, Training Accreditation

Type of Rule Making: New Rule

Rule Number and Name: 19 CSR 30-70.630-Lead Abatement Work Practice Standards

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimate n the aggregate as to the cost of compliance with the rule by the affected entities.
28	Licensed Day Care Facilities	$64,400 to $140,000
13	Licensed Day Care Centers	$104,000 to $312,000
1799	Apartment Units	$4,137,700 to $8,995,000
1799	Single-Family Units	$7,196,000 to $21,588,000
3699-total project notifications to OLLA	All classifications	$16,375.50

III. WORKSHEET

28 (estimated number of licensed day care facilities that will undergo a lead abatement) x $2300 to $5,000 (estimated cost range for abatement) = $64,400 to $140,000 (estimated aggregate cost range annually to abate licensed day care facilities)

13 (estimated number of licensed day care centers that will undergo a lead abatement) x $4000 to $12,000 (estimated cost of time and labor to abate a single-family dwellings) x 2 (estimate that cost in a complex center costs twice as much) = $104,000 to $312,000 (estimated aggregate cost range annually to abate licensed day care centers)

3598 (estimated total number of family dwellings that will undergo abatement) x 50% (estimated number of apartments) x $2300 to $5000 (estimated cost range to abate an apartment unit) = $4,137,700 to $8,995,000 (estimated aggregate cost range annually to abate apartment units)

3598 (estimated total number of family dwellings that will undergo abatement) x 50% (estimated number of single-family units) x $4000 to $12,000 (estimated cost range to abate a single-family unit) = $7,196,000 to $21,588,000 (estimated aggregate cost range annually to abate single family units)

3639 x $45 (annual total lead abatement project notifications to OLLA) = $16,375.50

IV. ASSUMPTIONS

Because legislation that went in to effect on August 28, 1998, repealed all similarly related statutes and regulations this fiscal note has been prepared as if there were no previous regulations and related fiscal notes.

The DOH assumes that owners of licensed day care facilities and private kindergartens and pre-kindergartens will undergo cost of lead abatement projects performed upon their facilities.

The DOH estimates that of the total number of licensed private child-occupied day care facilities (4728) 5.2% will undergo a risk assessment annually (250). The DOH estimates that 67% (168) of these inspections will occur in licensed day care facilities and 33% (82) will occur in day care centers. Based upon EPA's August 1996 "Regulatory Impact Analysis," the DOH estimates that 16.2% of these facilities inspected annually will need to undergo a lead abatement (28 in day care facilities and 13 in day care centers--total = 41).

Based upon the EPA's analysis, the DOH assumes that the cost to abate licensed day care facilities will range from $2300 to $5000. The cost to abate the larger size and more complex constructed day care centers will require time and labor resources equivalent to two target housing abatement jobs. According to the EPA analysis, the estimated cost in single-family housing abatement jobs across the United States ranges from $4000 to $12,000, which, when multiplied by two, would be a comparative cost for licensed day care centers.

The DOH estimates that of the total number of private kindergartens and pre-kindergartens (476) 5.2% will undergo a risk assessment annually (25) The DOH estimates that 71% (18)of these inspections will occur in private kindergartens, and 29% (7) will occur in pre-kindergartens. Based upon EPA's August 1996 "Regulatory Impact Analysis," the DOH estimates that 16.2% of these facilities inspected annually are considered lead hazards. The DOH estimates that 100% of these facilities will undergo a lead abatement (3 in kindergartens and 1 in pre-kindergartens--total = 4).

Based upon the EPA's analysis, the DOH assumes that the cost to abate pre-kindergartens will range from $2300 to $5000 per facility.

Based upon the EPA's analysis, the DOH assumes the cost to abate the larger size and more complex constructed kindergartens will require time and labor resources equivalent to two target housing abatement jobs. According to the EPA analysis, the estimated cost in single-family housing abatement jobs range across the United States from $4000 to $12,000, which, when multiplied by two, the DOH estimates would be a comparative cost for kindergartens.

Based upon EPA's August 1996 "Regulatory Impact Analysis," abatements in child-occupied facilities are assumed to be permanent. Thus the prevalence of lead is likely to decline over the years.

The DOH estimates that 6190 lead hazard screens or risk assessments will occur annually in target housing within the State of Missouri. Based upon EPA's August 1996 "Regulatory Impact Analysis," the DOH estimates that 23.9% will have paint in bad condition and 76.1 per cent will have paint in good condition. For various reasons, some of the owners of these private dwellings will option to not undergo an abatement. The DOH estimates that 50% of the dwellings with paint in good condition will undergo an abatement. According to EPA's August 1996 analysis, in Massachusetts (one of the states with a longer history of lead risk regulation) 84% of housing identified as having lead hazard had some sort of abatement. The DOH uses this percentage to estimate the number of dwellings with paint in poor condition that will undergo an abatement.

The DOH has no data pertaining to the number of dwellings by numbers of units that exist within the State of Missouri. Due to the lack of this data, the DOH uses total number of dwellings built in Missouri before

1979 to obtain estimated numbers for target housing. The DOH estimates that 50% of the abatements which occur annually will involve apartment units and 50% will involve single-family units. The DOH estimates the cost to abate apartments will range from $2300 to $5000 per unit; $4000 to $12,000 in single-family units.

The DOH assumes that licensed lead abatement contractors will undergo the cost of notifying OLLA of planned industrial lead abatement projects. It is estimated that the cost to provide project notification to OLLA will be $45 per project ($25-notification fee and $20-cost to complete the notification form, i.e., contractors estimated hourly wage ($40) x the estimated amount of time (30 min) to complete the OLLA notification form).

The DOH estimates the number of abatements will remain constant yearly, since relatively permanent abatements in houses are assumed to have a life of 20 years and will thus need to be repeated in the future.

If there was more than one method to calculate a cost, the most expensive method was used.

It is anticipated the total aggregated cost per year will recur each year for the life of the rule. The duration of this rule cannot be estimated. The cost will be adjusted by 5% annually for inflation.

Title 19—DEPARTMENT OF HEALTH
Division 30—Division of Health Standards and Licensure
Chapter 70—Lead Abatement and Assessment Licensing, Training Accreditation

PROPOSED RULE

19 CSR 30-70.640 Project Notification for Industrial Lead Abatement Projects

PURPOSE: This rule delineates the procedure for filing an industrial lead abatement project notification with the Missouri Department of Health, Office of Lead Licensing and Accreditation.

(1) Notification. Any person or entity conducting an industrial lead abatement project shall submit a notification to the department at least ten (10) business days prior to the onset of the lead abatement project.

(A) The notification shall be mailed with a check or money order made payable to the Missouri Department of Health for the nonrefundable fee of twenty-five dollars ($25) to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The notification form provided by the department shall include the following:

1. The street address, city, state, zip code and county of each location where abatement will occur;
2. The name, address and telephone number of the property owner;
3. An indication of the type of structure being abated (i.e., bridge, superstructure or other structure that is not a dwelling or child-occupied facility);
4. The date of the onset of the abatement project;
5. The estimated completion date of the abatement project;
6. The work days and hours of operation that the abatement project will be conducted;
7. The name, address, telephone number and license number of the lead abatement contractor;
8. The name and license number of each lead abatement supervisor;
9. The name and license number of each lead abatement worker;
10. The type(s) of abatement strategy(ies) that will be utilized (i.e., encapsulation, replacement, and/or removal); and
11. The signature of each lead abatement supervisor which certifies that all information provided in the project notification is complete and true to the best of the supervisor's knowledge.

(2) Emergency Notification. If the lead abatement contractor is unable to comply with the ten (10)-day notification period in the event of an emergency situation as defined in 19 CSR 30-70.600, the lead abatement contractor shall—

(A) Notify the Office of Lead Licensing and Accreditation (OLLA) by telephone, facsimile, or electronic mail within twenty-four (24) hours of the onset of the lead abatement project; and

(B) Submit the written notification and notification fee as prescribed in section (1) of this regulation no more than five (5) business days after the onset of the lead abatement project.

(3) Renotification. A renotification shall be submitted to OLLA at least twenty-four (24) hours prior to any changes from the original project notification.

(A) A renotification form shall be mailed to the Missouri Department of Health, Office of Lead Licensing and Accreditation, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The renotification form provided by the department shall include the following:

1. The street address, city, state, zip code and county of each location where abatement will occur;
2. The name, address and telephone number of the property owner;
3. An indication of the type of structure being abated (i.e., bridge, superstructure or other structure that is not a dwelling or child-occupied facility);
4. The license number of the lead abatement contractor;
5. A list of changes to the original notification which may include the following:
   A. The date of the onset of the abatement project;
   B. The estimated completion date of the abatement project;
   C. The work days and hours of operation that the abatement project will be conducted;
   D. The name, address, telephone number and license number of the lead abatement contractor;
   E. The name and license number of each lead abatement supervisor;
   F. The name and license number of each lead abatement worker; and
   G. The type(s) of abatement strategy(ies) that will be utilized (i.e., encapsulation, replacement, and/or removal); and
6. The signature of the lead abatement supervisor which certifies that all information provided in the project notification is complete and true to the best of the supervisor's knowledge.

AUTHORITY: sections 701.301, 701.309 and 701.312, RSMo Supp. 1998. Emergency rule filed Aug. 19, 1999, effective Aug. 30, 1999, expires Feb. 25, 2000. Original rule filed Aug. 19, 1999.

PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than $500 in the aggregate.

PRIVATE ENTITY COST: This proposed rule will have a total annual cost to private entities of $2,700 (adjusted annually for inflation).

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Lois Kollmeyer, Director, Division of Health Standards and Licensure, 920 Wildwood, Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

PRIVATE ENTITY COST

I. RULE NUMBER

Title: 19-DEPARTMENT OF HEALTH

Division: 30-Division of Health Standards & Licensure

Chapter: 70-Lead Abatement and Assessment Licensing, Training Accreditation

Type of Rule Making: New Rule

Rule Number and Name: 19 CSR 30-70.640-Project Notification for Industrial Lead Abatement Projects

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimate n the aggregate as to the cost of compliance with the rule by the affected entities.
60	Lead Abatement Contractors	$2700

III. WORKSHEET

$25-notification fee per project x $20-per project cost to complete the notification form x 60-estimated number of industrial lead abatement projects annually = $2700 annually

IV. ASSUMPTIONS

Because legislation that went in to effect on August 28, 1998, repealed all similarly related statutes and regulations this fiscal note has been prepared as if there were no previous regulations and related fiscal notes.

The Department of Health estimates that on a monthly basis OLLA will receive 5 notifications of industrial lead abatement projects, or 60 projects annually.

The DOH assumes that licensed lead abatement contractors will undergo the cost of notifying OLLA of planned industrial lead abatement projects. It is estimated that the cost to provide project notification to OLLA will be $45 per project ($25-notification fee and $20-cost to complete the notification form, i.e., contractors estimated hourly wage ($40) x the estimated amount of time (30 min) to complete the OLLA notification form).

If there was more than one method to calculate a cost, the most expensive method was used.

It is anticipated the total aggregated cost per year will recur each year for the life of the rule. The duration of this rule cannot be estimated. The cost will be adjusted by 5% annually for inflation.

This section will contain the final text of the rules proposed by agencies. The order of rulemaking is required to contain a citation to the legal authority upon which the order or rulemaking is based; reference to the date and page or pages where the notice of proposed rulemaking was published in the *Missouri Register;* an explanation of any change between the text of the rule as contained in the notice of proposed rulemaking and the text of the rule as finally adopted, together with the reason for any such change; and the full text of any section or subsection of the rule as adopted which has been changed from that contained in the notice of proposed rulemaking. The effective date of the rule shall be not less than thirty days after the date of publication of the revision to the *Code of State Regulations*.

The agency is also required to make a brief summary of the general nature and extent of comments submitted in support of or opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with the rulemaking, together with a concise summary of the agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule. The ninety-day period during which an agency shall file its Order of Rulemaking for publication in the *Missouri Register* begins either:1) after the hearing on the Proposed Rulemaking is held; or 2) at the end of the time for submission of comments to the agency. During this period, the agency shall file with the secretary of state the order of rulemaking, either putting the proposed rule into effect, with or without further changes, or withdrawing the proposed rule.

Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights and Measures
Chapter 30—Petroleum Inspection

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Agriculture under section 414.142, RSMo Supp. 1998, the director amends a rule as follows.

2 CSR 90-30.050 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 17, 1999 (24 MoReg 1195–1199). Those sections with changes are reprinted here. Paragraph (1) is reprinted to correct a typographical error. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Division of Weights and Measures received comments from three sources.

COMMENT: The executive director of the Missouri Petroleum Storage Tank Insurance Fund submitted a comment supporting the amendment.
RESPONSE: The Department of Agriculture acknowledges this response and appreciates the support.

COMMENT: The Missouri Petroleum Marketers and Convenience Store Association submitted comments regarding the following paragraphs:
Section (15) relating to the prohibition of plastic sight tube gauges. They recommended the continued use of such gauges with the addition of solenoid valves.
RESPONSE: The plastic currently used with sight tube gauges is not always compatible with the product it is gauging. This type of gauge is often not well maintained and also subject to vandalism which results in damage to the gauge, theft of petroleum products and subsequent product release into the environment. The use of solenoid valves on gauges would render them useless for their intended purpose especially for those deliveries that occur after business hours. No changes are being made to this section.

COMMENT: Section (29) relating to the definition of "suitable material" and "designed". They recommend the terms be either replaced or better defined.
RESPONSE AND EXPLANATION OF CHANGE: The terms "suitable material" has been eliminated from the text of the rule. Specific materials are stated in the text of the rule which will better clarify the intent of this section.

COMMENT: Section (33) relating to leak detection. The association stated there are problems with leak detection devices on exposed aboveground storage tank piping and recommend the use of electrical solenoid valves combined with annual pressure testing of lines.
RESPONSE: Solenoid valves do control the flow of product into the piping while they are in the off position. However they do not have the ability to indicate a piping leak nor do they control a leak when they are activated during the dispensing process. There may be some problems with some aspects of line leak detection with aboveground tank use, however, the proposed rule will allow different methods of leak detection or combinations thereof. This will include any new and more effective technology that is developed in the future. No changes are being made to this section.

COMMENT: Comments were received from the Department of Natural Resources, Division of Environmental Quality with regard to the following sections:
Section (1): There is a typographical error in the text of this section.
RESPONSE AND EXPLANATION OF CHANGE: The error is noted and corrected.

COMMENT: Section (3): DNR recommends the term major modification be better defined. Additionally DNR states that new piping installed onto older existing piping (such as an elbow in a lines fails, and is subsequently replaced) is certainly significant and believes that repairs and materials used in repairs should be required to meet the new standards and many instances should trigger an update of the entire facility; especially if the cause of the failure was corrosion of the tanks or piping.
RESPONSE: The language that appears in the text of this rule, with exception of the reference to the 1996 editions of NFPA 30 and 30A, has been in the Petroleum Inspection Rules for many years and does not appear to have created any problems or undue burden on the industry. Additionally, fuel storage and dispensing systems come in many different sizes and configurations. In the department's opinion, it would be impossible to define "major modification" in a manner that would easily be understood and applied. What may be a major modification for a small operator may be a minor modification for a large facility such as a truck stop. With regard to the elbow replacement referred to in comment; if the elbow was replaced on underground piping it could prove to be a "major modification." If the elbow was installed on an aboveground piping system it could be minor. Even what may appear to be a minor modification, such as electrical wiring, if not

done correctly, may produce a very distinct hazard to public and property. The department feels the current language in this section gives the department the authority and flexibility needed to address safety issues in a fair and equitable manner. No change has been made to this section.

COMMENT: Section (10): DNR stated the requirement of identifying loading and unloading connections to petroleum storage is a positive step.
RESPONSE: The department acknowledges the DNR comment and appreciates the support.

COMMENT: Sections (14)(B) and (18): DNR recommends that the language in these sections state whether the applicability includes both aboveground and underground storage tanks. There is a concern regarding the duplication in the regulation of underground storage tanks.
RESPONSE AND EXPLANATION OF CHANGE: The department agrees with this comment and has added text to clarify the applicability.

COMMENT: Section (20): DNR suggests that the interstitial space between two compartments in a multi-product tank be done from ports located on the top of the tank to prevent the accidental release of any product.
RESPONSE AND EXPLANATION OF CHANGE: The department would be concerned if drains were located on top of tanks since this would allow condensate to accumulate and either create or increase corrosion of the internal bulkhead. The department has added additional text which would require the drain to remain closed except for draining condensate or checking for leakage or failure of the bulkhead.

COMMENT: Section (21): DNR states that they think this section, which addresses tanks of riveted construction, is a good effort by the department in incorporating a phase out of such tanks. The DNR comments that tank replacement is a major capital investment and suggests that the Department of Agriculture clarify who does the inspection, who makes the determination and how extensive corrosion is determined. DNR comments that the American Petroleum Institute has developed recommended practices that may be useful references for inspection and corrosion determinations of tanks. DNR also recommends that this section be amended to add that the tanks and any other residuals be managed in accordance with state and federal requirements and that the tank site be assessed for product releases.
RESPONSE AND EXPLANATION OF CHANGE: The Department of Agriculture agrees that this section needs clarification as to who does the inspection and determination for tank corrosion. Changes have been made to this section to address this issue. With regard to references; guidelines are being established by the department for tank inspection . The tank inspection guidelines will include the incorporation of various standards, such as API 653, UL 142 and National Association of Corrosion Engineers (NACE). Ultrasonic testing will also be utilized as a tool for determination of tank shell thickness.

COMMENT: Section (24): DNR recommends that tanks "not being used" be defined in terms of a certain length of time out of use. They also stated that unused tanks are not necessarily empty, purged, or cleaned. Tanks that are not being used should be emptied, cleaned and disposed of in a manner that is safe to public, property and the environment. In addition, the DNR recommends language concerning safe closure procedures, proper management of used tanks and other residuals and to specify whether storage tanks include aboveground and underground tanks.
RESPONSE AND EXPLANATION OF CHANGE: The department agrees with the comments and recommendations from DNR regarding length of time out of use and emptying and cleaning of unused tanks and has changed the text to incorporate a portion of their suggested language. The department agrees with defining the applicability of this section to used aboveground tanks.

COMMENT: Section (25): DNR recommends that former underground storage tanks be prohibited from adaptation and use as an aboveground storage tank.
RESPONSE AND EXPLANATION OF CHANGE: The National Fire Protection Association (NFPA) 30A, Automotive and Marine Service Station Code, which is adopted by 2 CSR 90-30.050, prohibits the use of underground tanks for aboveground use. The department has, however, inserted a note in the text of this section relating to the prohibition of underground storage tanks for aboveground use.

COMMENT: Section (27): DNR commented that the exception to the 95% stop fill requirement should be eliminated or clarified. They also went on to state that tank overfills have contributed to some significant releases in Missouri and that overfill devices are seriously needed in Missouri to protect the environment.
RESPONSE: The department agrees that the overfilling of petroleum storage tanks has been a significant problem in Missouri. The department believes that overfills can be prevented by other inexpensive means, including 90% overfill alarms and proper tank gauging. The cost to retrofit the several thousand aboveground storage tanks in a manner that would allow the use of a stop-fill device would be extremely expensive and would place an undue burden on the industry, especially small business. No changes are being made to this section.

COMMENT: Section (29): DNR comments that the terms "substantially liquid tight" and "corrective action" need to be defined or clarified. They state that to their agency, corrective action generally means environmental cleanup including soil and groundwater, which can in some cases, take years to clean up. Additionally, DNR comments that the Department of Agriculture might wish to incorporate accepted industry standards in this section such as developed by the American Petroleum Institute. DNR states that if gravel or rock is not going to be allowed for secondary containment, to state it plainly.
RESPONSE AND EXPLANATION OF CHANGE: The department agrees with DNR that some of the language contained in the text of this section regarding substantially liquid tight, corrective action and construction materials need to be clarified. The department has made changes to this section.

COMMENT: Section (30): DNR recommends that secondary containment drains be eliminated. DNR states that the drain is a wastewater discharge point and may be subject to Water Pollution Control Program permits. DNR also states that there is a tendency for drains to be left open or otherwise fail, thereby rendering the containment structure ineffective.
RESPONSE: The department agrees that open drain valves on secondary containment structures is somewhat of a problem. The greater problem is, if the drain is eliminated, there is no easy nor necessarily economical way of eliminating water from containment structures. Other methods of water disposal, such as the use of sump pumps, may actually increase the hazard of fire and/or explosion if the sump is not installed or maintained properly. Accumulated water in containment structures reduce or eliminate the volume needed to contain released product, can produce a buoyancy problem for the storage tanks and also promote corrosion of the tanks, piping and associated equipment. The department actively informs the industry of the problems associated with storm water and that DNR does have a permitting process that probably applies to them. Drain lines in diked areas are also allowed and addressed in the United States Environmental

Protection Agency (USEPA) regulations 40 CFR 112.7(e)(1).The department does not see a need for change to the text of this section.

COMMENT: Section (33): DNR commented that they applaud the effort to develop and implement piping leak detection requirements. They recommended that leak detection requirements be expanded to include tank bottoms also. DNR stated that the leak detection requirements listed are not all equivalent and the terms used needed definition. DNR also states that automatic line leak detectors are not normally very sensitive devices and the alternative to this rule seems to be an accurate inventory.
RESPONSE: The Department of Agriculture recognizes the DNR comments on efforts to develop and implement piping leak detection requirements and appreciates the comment. Leak detection for tank bottoms may have merit but would dramatically increase the cost to the industry. The cost to the industry may not be commensurate with the protection provided by existing technology. This rule as stated allows alternative methods of leak detection. With regard to accurate inventory; those inventory methods currently utilized in underground tank systems will not likely be as accurate for aboveground storage tank systems. Historically, the industry buys product as net gallons and sells them as gross gallons. This inequity combined with the wide temperature variations associated with aboveground tank systems make inventory reconciliation much more difficult and perhaps somewhat more inaccurate as compared to underground storage tank inventory. No change is being made to this section.

COMMENT: Section (34): The DNR recommends the term accurate be clarified. They recommend the reference to the American Petroleum Institute publication API RP-1621 in the text of this rule.
RESPONSE: The language in the text of the proposed rule is consistent with the language contained in NFPA 30, Flammable and Combustible Liquids Code and 30A, Automotive and Marine Service Station Code regarding inventories for underground and aboveground storage tanks. No changes are being made to the text in this section.

COMMENT: Comments were received from MFA Oil Company with regard to the following sections:

Section (3): MFA stated that their concern with this rule is in regard to an existing bulk plant that needs to be updated including, but not limited to pulling the tanks to pour a dike wall or dike floor. If it will be considered that this is a major modification, there may not be enough room available to meet the distance requirements contained in NFPA 30A. Also, at an existing bulk plant, there may not be enough room for the distance requirements if a card system is to be installed. The requirement for new construction is fine, but the requirement for new installation and major renovation may be a hardship for current business.
RESPONSE: The language in this rule, with exception to the reference to the 1996 NFPA 30 and 30A has been in the Petroleum Inspection Rules for many years and has not created an undue burden on the industry. Additionally, fuel storage and dispensing systems come in many different sizes and configurations. In the department's opinion, it would be impossible to define "major modification" in a manner that would be easily understood and applied. What may be a major modification for a small operator may be a minor modification for a large facility such as a truck stop. With regard to card systems at bulk plants, instead of bulk delivery trucks or transports being the only vehicles to frequent the plant, numerous members of the public have access to the bulk plant and refueling facilities. In this type of facility the number of product transfers dramatically increase, the amount of fuel handled is much greater and fuel transfer involves a much more complex dispensing system. This increases the safety exposures for the bulk plants and creates a greater potential for incidents. No change has been made to this section.

COMMENT: Section (13): MFA stated that doing any of the four items listed in this section of the rule will create a problem when upgrading or improving a location and require total relocation. This would be a problem if they have to remove tanks to make improvements on dikes. MFA states that it would be safer and to their advantage to install a larger tank and that this would not be allowed under the new regulations if proper distance requirements were not adequate. They stated that it may be necessary for them to install additional tanks because of the diesel fuel excise tax situation.
RESPONSE: Chapter 414, RSMo, mandates that premises utilized for the sale of petroleum products be safe from fire and explosion and not likely to cause injury to public or property. The existing tank spacing and distance requirements, in many instances, are not adequate to protect public and property should an incident occur with an aboveground storage tank facility. Also, the lack of tank spacing from buildings or property lines can hinder attempts by emergency personnel to get equipment in place to control such an incident adequately. Many factors, including traffic, tank size, point of product transfer into a tank, tank venting and ignition sources play a role in safety and may dictate where or how a tank should be located. Our primary concern must be to protect public and property. No changes are being made to this section.

COMMENT: Section (27): MFA states that in order to comply with the NFPA codes it would be necessary to have an audible alarm in addition to the 95% stop-fill. They state that the department is giving an exemption to the stop fill requirement, but still requiring the audible alarm. MFA also states that the technology for these alarms is limited, but they have been working with suppliers on demonstrations. MFA does not believe these should be required on existing tanks.
RESPONSE: The overfilling of tanks is a significant problem in Missouri that is creating major safety hazards to public and property while also creating significant environmental problems. There are overfill alarm devices on the market today, when utilized properly, and combined with good inventory control, including attentiveness by drivers on the loading/unloading process, can prevent tank overfills. The possible exemption on the 95% stop-fill requirement is because most of the 7,600 aboveground tanks that are in service at regulated sites would require a major retrofit to accommodate stop fill devices at a significant cost. The stop fill requirement would also significantly impact those smaller tanks that are currently filled by nozzle from tank wagon delivery trucks. No changes are being made to this section.

COMMENT: Section (34): MFA states that this section does not state the period of time inventory records would be requested for and that the period of time to provide records for the immediate future would be greater. MFA also states that they could provide months of records within hours but current records would take longer. They state that final reconciliation of records are done at the end of the month.
RESPONSE: Should a leak occur or an accident happen, it is extremely important to have current and/or historical product inventory records available as soon as possible. This will help to determine the extent of product loss and a subsequent corrective action plan. Continuous product inventory is an important tool needed to insure the integrity of the fuel storage and dispensing system. No changes are being made to this section.

2 CSR 90-30.050 Inspection of Premises

(1) All locations utilized for the sale or storage of petroleum products regulated by Chapter 414, RSMo shall meet the requirements of the National Fire Protection Association (NFPA) manual No.

30, entitled *Flammable and Combustible Liquids Code*, 1996 Edition and NFPA 30A entitled *Automotive and Marine Service Station Code*, 1996 Edition which are incorporated herein by reference. Existing plants, storage, storage equipment, buildings, structures and installations for the storage, handling or use of flammable or combustible liquids at any location which is not in strict compliance with the terms of this code may be continued in use, provided these do not constitute a distinct hazard to life or property. When the director determines that continued use will constitute a distinct hazard to life and property, s/he shall notify the owner or operator and specify the reason in writing and shall order the correction, discontinuance or removal of same.

(14) After the effective date of this rule, the provisions of section 2-4.2.2, relating to aboveground storage tank distance requirements, contained in the 1996 Edition of NFPA Manual No. 30A shall apply only to new locations and those existing locations that—

(A) Install aboveground storage tanks in place of underground storage tanks;

(B) Remove and replace all aboveground storage tanks, piping and dispensing devices;

(C) Replace any existing aboveground storage tanks with one of a larger capacity; and

(D) Install additional aboveground tanks.

(18) Storage tanks of double wall construction are not acceptable for use aboveground in lieu of secondary containment by diking or remote impounding unless the tanks meet the requirements of NFPA 30A, 1996 Edition, section 2-4.5, and are equipped with automatic tank gauging, overfill protection and interstitial monitoring. Section 2-3.4.1, exception (2), contained in the 1996 Edition of NFPA 30 shall not apply.

(20) All aboveground storage tanks utilizing compartments and storing different classes of products shall be constructed with a double wall center bulkhead with means interstitial monitoring. This may be accomplished using an interstitial drain which must be kept closed at all times except for draining condensate or checking for leakage or failure of the bulkhead. Any liquid that is drained from the interstitial space, may be considered a hazardous waste, and must be disposed of in a manner that is in compliance with the Department of Natural Resources regulations pertaining to such liquids.

(21) Any aboveground storage tank utilizing riveted construction, that has been determined by inspection, by the Department of Agriculture, to have extensive corrosion of the tank shell or seepage or leakage from any portion of the tank shell or tank seams, shall be removed from service and disposed of in a safe manner. All other aboveground storage tanks utilizing riveted construction shall be removed from service on or before January 1, 2004, and disposed of in a manner that is safe to public, property and the environment.

(24) Aboveground storage tanks that are not being used, and have been out of service for six (6) months or more, shall be emptied, cleaned of product and shall be removed from the secondary containment facilities.

(25) Tanks manufactured for transportation purposes, such as tank wagon and transportation tanks, shall not be utilized for fixed storage of products regulated by Chapter 414, RSMo. (Note: Tanks manufactured for underground use are also prohibited for aboveground storage tank use.)

(29) The walls and floor of secondary containment structures shall be constructed of earth, steel, concrete or solid masonry that is compatible with the specifications of the product being stored, that is liquid tight and have the ability to contain any released product until corrective action, such as the removal of released product and subsequent cleanup including soil and groundwater, can occur. Cleanup of any released product and contaminated soil, groundwater, etc., shall be in conformance with the Department of Natural Resources environmental regulations. The walls and floor of the containment structure shall be designed to support the gravity load of the storage containers and the hydrostatic loads resulting from a release within the secondary containment structure. Gravel, rock or open cell block structures are not considered to be liquid tight and cannot be used.

Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights and Measures
Chapter 30—Petroleum Inspection

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Agriculture under section 414.142, RSMo Supp. 1998, the director rescinds a rule as follows:

2 CSR 90-30.060 Automotive and Marine Service Stations **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 17, 1999 (24 MoReg 1200). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received regarding this proposed rescission.

Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights and Measures
Chapter 30—Petroleum Inspection

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Agriculture under section 414.142, RSMo Supp. 1998, the director amends a rule as follows.

2 CSR 90-30.070 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 17, 1999 (24 MoReg 1200–1202). The section with changes is reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: Two written comments were received.

COMMENT: The executive director of the Missouri Petroleum Storage Tank Insurance Fund supports the amendment.

COMMENT: MFA Oil Company raised concern regarding the leak detection requirement contained in section (13) of this rule. They stated that it has been their experience that line leak detectors do not work properly on aboveground storage tanks because of temperature changes and vaporization of the fuel. MFA stated that their plants which have submerged pumps have solenoid valves installed, thus the section of piping monitored would be small. They also stated if the solenoid valve was moved because to the inlet of a gravity tank, there would be a greater potential for leaks and product release.

RESPONSE AND EXPLANATION OF CHANGE: The text contained in this section, with exception of the year edition of NFPA 30A, has not changed since January 1, 1988. Changes have been made to make this section consistent with the provision of 2 CSR 90-30.050(33).

2 CSR 90-30.070 Unattended Self-Service Stations

(13) Remote pumps serving dispensing devices shall meet the standards of UL and the requirements contained in 2 CSR 90-30.050 (33).

Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights and Measures
Chapter 30—Petroleum Inspection

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Agriculture under section 414.142, RSMo Supp. 1998, the director amends a rule as follows:

2 CSR 90-30.080 Measuring Devices **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 17, 1999 (24 MoReg 1203). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received regarding this proposed amendment.

Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights and Measures
Chapter 30—Petroleum Inspection

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Agriculture under section 414.142, RSMo Supp. 1998, the director amends a rule as follows:

2 CSR 90-30.090 Tank Trucks and Tank Wagons **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 17, 1999 (24 MoReg 1203–1206). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received regarding this proposed amendment.

Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights and Measures
Chapter 30—Petroleum Inspection

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Agriculture under section 414.142, RSMo Supp. 1998, the director amends a rule as follows:

2 CSR 90-30.100 Terminals **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 17, 1999 (24 MoReg 1207). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: Comments were received from the executive director of the Missouri Petroleum Storage Tank Insurance Fund supporting the proposed amendment.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 7—Wildlife Code: Hunting: Seasons, Methods, Limits

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-7.440 is amended.

This amendment establishes hunting seasons and limits and is excepted by section 536.021, RSMo from the requirement for filing as a proposed amendment.

The Department of Conservation amended 3 CSR 10-7.440 by establishing seasons and limits for hunting migratory waterfowl during the 1999-2000 seasons.

3 CSR 10-7.440 Migratory Game Birds and Waterfowl: Seasons, Limits

PURPOSE: The Department of Conservation is authorized to select waterfowl hunting season dates and bag limits within frameworks established by the U. S. Fish and Wildlife Service. The seasons and limits selected are intended to provide optimum hunting opportunity consistent with the welfare of the species.

(1) Migratory game birds and waterfowl may be taken, possessed, transported and stored as provided in federal regulations. The head or one fully feathered wing must remain attached to all waterfowl while being transported from the field to one's home or a commercial preservation facility. Seasons and limits are as follows:

(F) Ducks and coots may be taken from one-half (1/2) hour before sunrise to sunset from October 23 to December 21 in the North Zone (that portion of Missouri north of a line running west from the Illinois border on Interstate Hwy. 70 to U.S. Hwy. 54; south on U.S. Hwy. 54 to U.S. Hwy. 50; and west on U.S. Hwy. 50 to the Kansas border); from November 13 to January 11 in the South Zone (that portion of the state South of a line running west from the Illinois border on Mo. Hwy. 34 to Interstate Hwy. 55; south on Interstate Hwy. 55 to U.S. Hwy. 62; west on U.S. Hwy. 62 to Mo. Hwy. 53; north on Mo. Hwy. 53 to Mo. Hwy. 51; north on Mo. Hwy. 51 to U.S. Hwy. 60; west on U.S. Hwy. 60 to Mo. Hwy. 21; north on Mo. Hwy. 21 to Mo. Hwy. 72; west on Mo. Hwy. 72 to Mo. Hwy. 32; west on Mo. Hwy. 32 to U.S. Hwy. 65; north on U.S. Hwy. 65 to U.S. Hwy. 54; west on U.S. Hwy. 54 to Mo. Hwy. 32; south on Mo. Hwy. 32 to Mo. Hwy. 97; south on Mo. Hwy. 97 to Dade County Hwy. NN; west on Dade County Hwy. NN to Mo. Hwy. 37; west on Mo. Hwy. 37 to Jasper County Hwy. N; west on Jasper County Hwy. N to Jasper County Hwy. M; and west on Jasper County Hwy. M to the Kansas border); and from October 30 to December 28 in the Middle Zone (remainder of Missouri). Ducks and coots may be taken by youth hunters less than sixteen (16) years of age from one-half (1/2) hour before sun-

rise to sunset on October 16 in the North Zone, on October 23 in the Middle Zone and on November 6 in the South Zone. Youth hunters must be accompanied by an adult eighteen (18) years of age or older who cannot hunt. Adults must be licensed unless the youth hunter possesses a valid hunter education certificate card. Limits are as follows:

1. Coots—Fifteen (15) daily; thirty (30) in possession.

2. Ducks—The daily bag limit of ducks is six (6) and may include no more than four (4) mallards (no more than two (2) of which may be a female), three (3) scaup, two (2) wood ducks, one (1) black duck, two (2) redhead, five (5) mergansers (no more than one (1) hooded merganser), one (1) canvasback and one (1) pintail. The possession limit is twelve (12), including no more than eight (8) mallards (no more than four (4) of which may be female), six (6) scaup, four (4) wood ducks, two (2) black ducks, four (4) redheads, ten (10) mergansers (no more than two (2) hooded mergansers), two (2) canvasbacks and two (2) pintails.

(G) Geese may be taken from one-half (1/2) hour before sunrise to sunset as follows:

1. Blue, snow and Ross' geese may be taken from November 6 to January 16 and February 5 to March 9 in the North Zone and Middle Zone; from November 20 to March 4 in the Swan Lake Zone; and from November 25 to March 9 in the Southeast Zone and South Zone.

2. White-fronted geese may be taken from October 2 to October 18, November 6 to November 28 and December 18 to January 16 in the North Zone and Middle Zone; from October 23 to October 31 and from November 20 to January 30 in the Swan Lake Zone; and from November 13 to January 30 in the Southeast Zone and South Zone.

3. In the Swan Lake Zone, Canada geese and brant may be taken from October 23 to October 31 and from November 20 to December 30. In the Swan Lake Zone, no hunter shall fire more than ten (10) shells daily at Canada geese during the Canada goose season.

4. In the Southeast Zone and South Zone, Canada geese and brant may be taken from October 2 to October 11, from November 13 to November 28 and December 18 to January 30.

5. Except in the Swan Lake Zone, Southeast Zone and South Zone, Canada geese and brant may be taken from October 2 to October 18, November 6 to November 28 and December 18 to January 16 in the North Zone and Middle Zone.

6. The daily bag limit is twenty (20) blue, snow or Ross' geese, two (2) brant and two (2) white-fronted geese statewide. The possession limits for brant and white-fronted geese are four (4) each and there is no possession limit for blue, snow and Ross' geese.

7. The daily bag limit is two (2) Canada geese in the Swan Lake Zone. The possession limit is four (4) Canada geese.

8. The daily bag limit is three (3) Canada geese from October 2 to October 11 and two (2) Canada geese from November 13 to November 28 and from December 18 to January 30 in the Southeast Zone and South Zone. The possession limit is six (6) Canada geese from October 2 to October 11 and four (4) Canada geese from November 13 to November 28 and from December 18 to January 30.

9. Except in the Swan Lake Zone, Southeast Zone and South Zone, the daily bag limit is three (3) Canada geese from October 2 to October 18 and two (2) Canada geese from November 6 to November 28 and from December 18 to January 16 in the North Zone and Middle Zone. The possession limit is six (6) Canada geese from October 2 to October 18 and four (4) Canada geese from November 6 to November 28 and from December 18 to January 16.

10. Zones: The Swan Lake Zone shall be the area bounded by U.S. Hwy. 36 on the north, Mo. Hwy. 5 on the east, Mo. Hwy. 240 and U.S. Hwy. 65 on the south, and U.S. Hwy. 65 on the west. The North Zone shall be that portion of the state north of a line running West from the Illinois border on Interstate Hwy. 70 to U.S. Hwy. 54; south on U.S. Hwy. 54 to U.S. Hwy. 50; west on U.S. Hwy 50 to the Kansas border excluding the Swan Lake Zone. The South Zone shall be that portion of Missouri south of a line running west from the Illinois border on Mo. Hwy. 34 to Interstate Hwy. 55; south on Interstate Hwy. 55 to U.S. Hwy. 62; west on U.S. Hwy. 62 to Mo. Hwy. 53; north on Mo. Hwy. 53 to Mo. Hwy. 51; north on Mo. Hwy. 51 to U.S. Hwy. 60; west on U.S. Hwy. 60 to Mo. Hwy. 21; north on Mo. Hwy. 21 to Mo. Hwy. 72; west on Mo. Hwy. 72 to Mo. Hwy. 32; west on Mo. Hwy. 32 to U.S. Hwy. 65; north on U.S. Hwy. 65 to U.S. Hwy. 54; west on U.S. Hwy. 54 to Mo. Hwy. 32; south on Mo. Hwy. 32 to Mo. Hwy. 97; south on Mo. Hwy. 97 to Dade County Hwy. NN; west on Dade County Hwy. NN to Mo. Hwy. 37; west on Mo. Hwy. 37 to Jasper County Hwy. N; west on Jasper County Hwy. N to Jasper County Hwy. M; west on Jasper County Hwy. M to the Kansas border. The Middle Zone shall be the remainder of Missouri excluding the Southeast Zone (that portion of the state west of a line beginning at the intersection of Mo. Hwy. 34 and Interstate Hwy. 55, south of Interstate Hwy. 55 to U.S. Hwy. 62; west on U.S. Hwy. 62 to Mo. Hwy. 53; north on Mo. Hwy. 53 to Mo. Hwy. 51; north on Mo. Hwy. 51 to U.S. Hwy. 60; west on U.S. Hwy. 60 to Mo. Hwy. 21; north on Mo. Hwy. 21 to Mo. Hwy. 72; east on Mo. Hwy. 72 to Mo. Hwy. 34; east on Mo. Hwy. 34 to Interstate Hwy. 55).

(H) Shells possessed or used while hunting waterfowl and coots statewide, and for other wildlife as designated by posting on public areas, must be loaded with material approved as nontoxic by the United States Fish and Wildlife Service.

SUMMARY OF COMMENTS: Seasons and limits are excepted from the requirement of filing as a proposed amendment under section 536.021, RSMo.

This amendment filed September 1, 1999, effective **September 11, 1999**.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 9—Wildlife Code: Confined Wildlife: Privileges, Permits, Standards

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-9.442 is amended.

This amendment establishes hunting seasons and limits and is excepted by section 536.021, RSMo from the requirement for filing as a proposed amendment.

The Department of Conservation amended 3 CSR 10-9.442 by adjusting the season for waterfowl hunting by falconers in 1999-2000 to conform to federal frameworks.

3 CSR 10-9.442 Falconry

PURPOSE: This amendment adjusts the season dates for hunting waterfowl by falconry as provided in the frameworks established by the U. S. Fish and Wildlife Service.

(2) Only designated types and numbers of birds of prey may be possessed and all these birds shall bear a numbered, nonreuseable marker provided by the department. Birds held under a falconry permit may be used, without further permit, to pursue and take wildlife within the following seasons and bag limits:

(E) Ducks, mergansers and coots may be taken from September 11 to September 26 and from October 13 to January 11 from one-half (1/2) hour before sunrise to sunset. Daily limit: three (3) birds singly or in the aggregate, including doves; possession limit: six (6) birds singly or in the aggregate, including doves.

SUMMARY OF COMMENTS: Seasons and limits are excepted from the requirement of filing as a proposed amendment under section 536.021, RSMo.

This amendment filed September 1, 1999, effective **September 11, 1999**.

Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION
Division 50—Division of Instruction
Chapter 321—Consolidated Federal Programs

ORDER OF RULEMAKING

By the authority vested in the State Board of Education under section 178.430, RSMo 1994, the board amends a rule as follows:

5 CSR 50-321.010 General Provisions Governing the Consolidated Grants Under the Improving America's Schools Act **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 1, 1999 (24 MoReg 1365–1366). No changes are made to the text of the proposed amendment and no changes are recommended to the *Administrative Manual for the Consolidated Federal Programs* which are incorporated by reference in the administrative rule. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENT: No comments were received.

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 40—State Board of Mediation
Chapter 2—General Rules

ORDER OF RULEMAKING

By the authority vested in the State Board of Mediation under section 295.070, RSMo 1994, the board amends a rule as follows:

8 CSR 40-2.010 Definitions **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 1999 (24 MoReg 1507–1508). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 40—State Board of Mediation
Chapter 2—General Rules

ORDER OF RULEMAKING

By the authority vested in the State Board of Mediation under section 295.070, RSMo 1994, the board amends a rule as follows:

8 CSR 40-2.020 Petitions for Certification or Decertification **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 1999 (24 MoReg 1508). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 40—State Board of Mediation
Chapter 2—General Rules

ORDER OF RULEMAKING

By the authority vested in the State Board of Mediation under section 295.070, RSMo 1994, the board amends a rule as follows:

8 CSR 40-2.030 Contents of Petition for Certification **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 1999 (24 MoReg 1508–1509). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 40—State Board of Mediation
Chapter 2—General Rules

ORDER OF RULEMAKING

By the authority vested in the State Board of Mediation under section 295.070, RSMo 1994, the board amends a rule as follows:

8 CSR 40-2.040 Contents of Petition for Decertification **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 1999 (24 MoReg 1509). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 40—State Board of Mediation
Chapter 2—General Rules

ORDER OF RULEMAKING

By the authority vested in the State Board of Mediation under section 295.070, RSMo 1994, the board amends a rule as follows:

8 CSR 40-2.050 Petition for Unit Clarification **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 1999 (24 MoReg 1509). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 40—State Board of Mediation
Chapter 2—General Rules

ORDER OF RULEMAKING

By the authority vested in the State Board of Mediation under section 295.070, RSMo 1994, the board amends a rule as follows:

8 CSR 40-2.055 Petition for Amendment of Certification **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 1999 (24 MoReg 1509–1510). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 40—State Board of Mediation
Chapter 2—General Rules

ORDER OF RULEMAKING

By the authority vested in the State Board of Mediation under section 295.070, RSMo 1994, the board amends a rule as follows:

8 CSR 40-2.070 Validity of Showing of Interest **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 1999 (24 MoReg 1510). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 40—State Board of Mediation
Chapter 2—General Rules

ORDER OF RULEMAKING

By the authority vested in the State Board of Mediation under section 295.070, RSMo 1994, the board amends a rule as follows:

8 CSR 40-2.100 Initial Action **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 1999 (24 MoReg 1510). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 40—State Board of Mediation
Chapter 2—General Rules

ORDER OF RULEMAKING

By the authority vested in the State Board of Mediation under section 295.070, RSMo 1994, the board amends a rule as follows:

8 CSR 40-2.110 Petition—Amendments or Withdrawal by Petitioning Party **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 1999 (24 MoReg 1510–1511). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 40—State Board of Mediation
Chapter 2—General Rules

ORDER OF RULEMAKING

By the authority vested in the State Board of Mediation under section 295.070, RSMo 1994, the board amends a rule as follows:

8 CSR 40-2.120 List of Employees **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 1999 (24 MoReg 1511). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 40—State Board of Mediation
Chapter 2—General Rules

ORDER OF RULEMAKING

By the authority vested in the State Board of Mediation under section 295.070, RSMo 1994, the board amends a rule as follows:

8 CSR 40-2.130 Intervention **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 1999 (24 MoReg 1511). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 40—State Board of Mediation
Chapter 2—General Rules

ORDER OF RULEMAKING

By the authority vested in the State Board of Mediation under section 295.070, RSMo 1994, the board amends a rule as follows:

8 CSR 40-2.150 Notices of Election **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 1999 (24 MoReg 1511–1512). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 40—State Board of Mediation
Chapter 2—General Rules

ORDER OF RULEMAKING

By the authority vested in the State Board of Mediation under section 295.070, RSMo 1994, the board amends a rule as follows:

8 CSR 40-2.160 Election Procedure **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 1999 (24 MoReg 1512). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 40—State Board of Mediation
Chapter 2—General Rules

ORDER OF RULEMAKING

By the authority vested in the State Board of Mediation under section 295.070, RSMo 1994, the board amends a rule as follows:

8 CSR 40-2.170 Runoff Election **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 1999 (24 MoReg 1512–1513). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 40—State Board of Mediation
Chapter 2—General Rules

ORDER OF RULEMAKING

By the authority vested in the State Board of Mediation under section 295.070, RSMo 1994, the board amends a rule as follows:

8 CSR 40-2.180 Agreement for Consent Election **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 1999 (24 MoReg 1513). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods and Air Pollution Control Regulations for the Entire State of Missouri

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo Supp. 1998, the commission amends a rule as follows:

10 CSR 10-6.060 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 17, 1999, (24 MoReg 1208–1215). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department received comments from the Environmental Protection Agency (EPA), the Regulatory Group for Missouri (REGFORM), the Missouri Limestone Producers Association (MLPA), the Missouri Ag Industries Council Incorporated (MO-AG), the American Cyanamid Company, and the Associated Industries of Missouri (AIM).

COMMENT: REGFORM, and others (MLPA, MO-AG, American Cyanamid Company, and AIM) supported establishing by rule a general exemption from permitting for small projects at currently permitted installations. However, they commented that the proposed negligible levels, emission levels under which currently permitted installations would be exempt from pre-construction review, were too low. A "White Paper" prepared by REGFORM argues that negligible levels and approach vary from state to state, and suggested that an "average" negligible emission level be chosen based on the experience of other states. The commenters suggested that the negligible levels for criteria pollutants be established at four (4) tons per year averaged on a monthly basis (0.333 tons per

month). The commenters also argued that the proposed negligible level (0.5 pounds per hour) was not supported by any clear or scientific rationale, and that the department should, therefore, rely on the experience of other states. The 0.5 pounds per hour figure may not achieve its desired affect, that being the reduction of the number of permit reviews of insignificant projects. Another point made by commenters was that this issue is one of competitiveness, arguing that Missouri competes with other states for projects, and this is another factor that affects the decision of some companies when deciding where to locate.

During the Missouri Air Conservation Commission meeting on July 29, 1999, the topic of negligible levels was discussed at some length. The Commission considered the issue and directed staff to draft rule language that increased the negligible exemption to industry's proposed 0.91 pounds per hour (4 tons per year) for situations in which an emission unit is being built farther than 500 feet from the property line.

RESPONSE: The Commission adopted the proposed order of rulemaking such that the negligible level, as proposed by the Department (0.5 pounds per hour), will apply only to situations where the proposed emission unit is located closer than 500 feet from the property boundary. For situations where the proposed emission unit is located at a distance greater than 500 feet from the property boundary, the negligible level will be 0.91 pounds per hour. This compromise recognizes the Department's concern about situations in which applicants want to locate emission units on very small lots, thereby compromising local air quality. The higher exemption is available for businesses that have enough distance to its property boundary for emissions to disperse.

The department agrees that the proposed 0.5 pounds per hour negligible level was not based on any scientific rationale or method, but this was not possible. There are simply too many factors beyond emissions rate that affect the ambient concentration. These confounding factors include distance to the property line, emission height, local meteorological conditions, and plume velocity and temperature, characteristics of the pollutant, and terrain and building downwash effects. Looking at other states as a starting point is a good idea, but the department believes that the specific needs of Missouri should be considered. Missouri permitting experience tells us that most facilities have enough distance that small emission increases will not have significant air quality impacts. But Missouri does deal with many applicants that wish to locate on very small lots, and this is the department's primary concern. By adding a distance component to the negligible level, the department's concerns are somewhat addressed.

The proposed 0.5 pound per hour level is greater than that used by Kentucky and Tennessee, and Illinois, but more conservative than Iowa, Kansas, and Oklahoma. Industry's proposed 0.91 pounds per hour suggestion is more in line with the negligible levels in Iowa and Oklahoma.

In addition to the magnitude of the negligible level, there was also the issue of averaging time. The reason the department chose to set the negligible level on an hourly basis has to do with the fact that annual limits are not protective. Some of the air quality standards are annual but most are based on much shorter timeframes. PM_{10}, for instance, is a 24-hour standard. But SO_2 and CO have 8-hour, 3- hour, and 1-hour averaging times. Hydrogen sulfide is a half-hour standard. We chose hourly to make the exemption simple. It is easy for a company to estimate their maximum hourly emissions using maximum hourly design rates. If we looked at a longer timeframe, for instance industry's suggested monthly average, there would be confusion about operating schedule. During the discussions at the July 19, 1999 Commission meeting, the Commissioners considered a monthly averaging timeframe, but chose to adopt the levels on an hourly basis.

COMMENT: EPA commented that the proposed negligible level for criteria pollutants (0.5 pounds per hour) is greater than the de minimis level for lead (Pb). Under the proposed rule sources emitting lead at rates greater than the de minimis level could be found exempt from review.

RESPONSE AND EXPLANATION OF CHANGE: The Department agrees and has changed the proposed rule to explicitly remove this exemption for projects that emit lead as a criteria pollutant. In practice, lead will be treated as a hazardous air pollutant and the negligible levels will follow the guidelines as required under subsection (12)(J).

COMMENT: The Missouri Ag Industries Council, Incorporated commented that subsection (5)(D) should be rewritten to exempt de minimis source applications from an air quality analysis unless the director of the Air Pollution Control Program has substantial evidence that the national ambient air quality standards are being "substantially exceeded." They also argued that imposing an air quality analysis requirement is burdensome to both staff and applicants, and is done with little corresponding benefit to the environment. Also, that regulatory air models are designed to work for larger emission sources, and are poorly applied with respect to smaller emission sources.

RESPONSE: The Department disagrees, and believes that the Missouri Air Conservation Law gives the Department broad authority and responsibility to make sure that emissions from a proposed project will not cause an air quality problem. The Department understands that this can be a burden, especially to small business. In the past, it has often been the case that de minimis projects were not subjected to an air quality analysis, because it was assumed that small projects would not have a significant impact on air quality. While typically true, this is not the case for situations in which an applicant chooses to take an annual de minimis emission limit, but their operating schedule enables them to emit relatively large amounts over short timeframes. This is a situation where the averaging time used to determine permit applicability is not protective of air quality. Many air quality standards have averaging times that are much shorter than annual, some shorter than one day. Program experience also shows that de minimis sources of fugitive particulate emissions also have the potential to cause air quality problems. In both cases, the Department believes that the Air Law places a responsibility to perform an air quality analysis for these types of projects. Because the Department recognizes that this process can be a burden, an improved application package is being developed to help applicants through this process. The improved application package is being redesigned so that all of the information needed to perform an air quality analysis will be required as part of the application. The application package will also include guidance so that applicants can perform a screening analysis themselves, prior to application. With this new guidance and new tools, applicants should be able to avoid a situation of not knowing what to expect, and hence avoid unplanned construction delays. For these reasons, the Department believes that the proposed rule language is appropriate. No change was made as a result of this comment.

COMMENT: The Environmental Protection Agency (EPA) recognized that the Department plans to propose changes to 10 CSR 10-6.020 Definitions and Common Reference Tables at a future date. EPA commented that the proposed changes to the definitions rule are directly related to the changes being recommended by the Construction Permit Streamlining Workgroup, and requests that all revisions to the new source review program are submitted to EPA for their review and action. In particular, changes to the system of aggregating emissions depends on the definition of "Net Emissions Increase". EPA provided a comparison of the federal definition with Missouri's.

RESPONSE: The Department agrees that to wholly complete the new source review reforms recommended by the Construction Permit Streamlining Workgroup changes will need to be made to the definitions rule, and the Department has had plans to do this as part of a future rulemaking. The Department intends to explain the context of these changes upon public hearing during the next revision to the definitions rule. When proposing changes to the definitions rule, the Department intends to better align Missouri's "Net Emissions Increase" definition with the federal. No change was made as a result of this comment.

COMMENT: EPA commented that paragraph (1)(D)3. states that certain facilities are exempt from the rule if they are "currently permitted". This term is not clear and should state what type of permit the facility needs to have to qualify for the exemption.
RESPONSE AND EXPLANATION OF CHANGE: The Department agrees and has changed language in the section as recommended.

COMMENT: EPA commented that Paragraphs (1)(D)3. and (5)(D)1. state that the director may require review of otherwise exempt projects if their emissions "will appreciably affect air quality or the air quality standards are appreciably exceeded. Both the Clean Air Act and subsequent regulations require that the preconstruction permit program assure that projects will not interfere with the attainment of an air quality standard. If a source contributes to a violation, whether the standards are "appreciably exceeded" or not, the state should be able to prevent construction of the source. EPA recommended changes to the rule to accommodate these concerns.
RESPONSE: The Department understands with EPA's concerns, but has decided not to change the regulation. In practice, the test applied to new construction is whether the project will cause exceedance of an ambient air quality standard. The language proposed by the Department mirrors our authority under Missouri Air Law. If the language is changed according to this comment, the regulation may be challenged because it would exceed the authority of the Air Law. Given these concerns, the Department has decided not to incorporate EPA's recommended changes.

COMMENT: EPA commented that the determining factor for whether or not to issue a permit in Paragraph (5)(D)1. should not be whether the application states a specific emission level, but whether, based on the application and any other available information, the director shows that the proposed source will operate at certain emission levels.
RESPONSE: Permit determinations can only be based on what is presented in an application. In practice, the Department attaches by reference the application as part of the permit. If an owner or operator change their operation in the future or they submit false information as part of an application, then either the operational change requires a new permit or they are in violation of their current permit. The Department already has the ability to make these determinations or require more information of applicants if needed. Therefore, the Department has decided not to change the proposed language.

COMMENT: EPA commented that the proposed rule language pertaining to air quality analysis for hazardous air pollutants (subsection (12)(J)) should be revised to omit language that requires the director to determine that a particular source is causing a particular injury in order to require additional analyses. Also, that these determinations are made at a particular point in time, and that the proposed language has the potential to allow the Department to "re-open" its determination at a later date requiring further analysis.
RESPONSE: The Department does not believe that the proposed language places the "burden of proof" on the director when determining whether additional air quality analysis will be required during review of a permit. The proposed language says that the director may require an air quality analysis if it is likely to cause an air quality problem. Also, in practice, once a permit review has been completed, it cannot be reopened for additional review. If a case were to arise in which the Department received new information about a particular hazardous air pollutant such that it would have changed the review and air quality analysis on a previous permit review, this would not be handled by re-opening a construction permit. It would either be dealt with during an operating permit review, or under other air pollution control program authority. For these reasons the Department has decided not to make any changes to the proposed language.

COMMENT: American Cyanamid commented that individual businesses often have the latest and best information about a particular hazardous air pollutant. Air Program staff track all Hazardous Air Pollutants, and can fall behind on current information about specific compounds. Applicants should be given the opportunity to present this information as part of the permitting process.
RESPONSE: The Department agrees. No changes to the rule were made, but we recognize that this science is evolving and as new information is presented by applicants, it should be incorporated into the tables required under section (12)(J).

COMMENT: Commissioner Foresman commented that in paragraph (12)(J)1. The term screen model action levels should be screening model action levels.

RESPONSE AND EXPLANATION OF CHANGE: The Department agrees and has incorporated the recommended change.

10 CSR 10-6.060 Construction Permits Required

(1) Applicability.
(D) Exempt Emissions Units.
1. The following combustion equipment is exempt from this rule if the equipment emits only combustion products, and the equipment produces less than one hundred fifty (150) pounds per day of any air contaminant:
A. Any combustion equipment using exclusively natural or liquefied petroleum gas or any combination of these with a capacity of less than ten (10) million British thermal units (BTUs) per hour heat input; or
B. Any combustion equipment with a capacity of less than one (1) million BTUs per hour heat input.
2. The following establishments, systems, equipment and operations also are exempt from this rule:
A. Office and commercial buildings, where emissions result solely from space heating by natural or liquefied petroleum gas of less than twenty (20) million BTUs per hour heat input. Incinerators operated in conjunction with these sources are not exempt;
B. Comfort air conditioning or comfort ventilating systems not designed or used to remove air contaminants generated by, or released from, specific units of equipment;
C. Equipment used for any mode of transportation;
D. Livestock and livestock handling systems from which the only potential air contaminant is odorous gas;
E. Any grain handling, storage and drying facility which—
(I) Is in noncommercial use only, that is, used only to handle, dry or store grain produced by the owner if—
(a) The total storage capacity does not exceed seven hundred fifty thousand (750,000) bushels;
(b) The grain handling capacity does not exceed four thousand (4000) bushels per hour; and

(c) The facility is located at least five hundred feet (500') from any recreational area, residence or business not occupied or used solely by the owner; and

(II) Is in commercial use and the total storage capacity of the new and any existing facility(ies) does not exceed one hundred ninety thousand (190,000) bushels;

F. Restaurants and other retail establishments for the purpose of preparing food for employee and guest consumption;

G. Sand and gravel operations that have a maximum capacity to produce less than seventeen and one-half (17.5) tons of product per hour and use only natural gas as fuel when drying;

H. Fugitive dust controls unless a control efficiency can be assigned to the equipment or control equipment;

I. Equipment or control equipment which eliminates all emissions to the ambient air;

J. Equipment (other than anaerobic lagoons) or control equipment which emits odors unless the equipment or control equipment also emits other regulated air pollutants;

K. Residential wood heaters, cookstoves or fireplaces;

L. Laboratory equipment used exclusively for chemical and physical analysis or experimentation, except equipment used for controlling radioactive air contaminants;

M. Recreational fireplaces; and

N. Stacks or vents to prevent the escape of sewer gases through plumbing traps for systems handling domestic sewage only. Systems which include any industrial waste do not qualify for this exemption.

3. At installations, previously issued a permit under this rule, construction or modifications are exempt from this rule if they meet the requirements of subparagraphs (1)(D)3.A. or (1)(D)3.B. of this rule for criteria pollutants, except lead, and subparagraph (1)(D)3.C. for hazardous air pollutants. The director may require review of construction or modifications otherwise exempt under subparagraphs (1)(D)3.A., (1)(D)3.B., or (1)(D)3.C. of this rule if the emissions of the proposed construction or modification will appreciably affect air quality or the air quality standards are appreciably exceeded or complaints involving air pollution have been filed in the vicinity of the proposed construction or modification.

A. For proposed construction or modification located less than five hundred (500) feet from the property boundary, at maximum design capacity the proposed construction or modification shall emit each criteria pollutant at a rate of no more than one-half (0.5) pounds per hour. For proposed construction or modification located more than five hundred (500) feet from the property boundary, at a maximum design capacity the proposed construction or modification shall emit each criteria pollutant at a rate of no more than 0.91 pounds per hour.

B. Actual emissions of each criteria pollutant will be no more than eight hundred seventy-six (876) pounds per year.

C. At maximum design capacity the proposed construction or modification will emit a hazardous air pollutant at a rate of no more that one-half (0.5) pounds per hour, or the hazardous air pollutant emission threshold as established in subsection (12)(J) of this rule, which ever is less.

(12) Appendices.

(J) Appendix J, Air Quality Analysis for Hazardous Air Pollutants.

1. The director shall maintain a table of emission threshold levels, risk assessment levels, and screening model action levels for hazardous air pollutants. Applicants will not be required to submit a hazardous air pollutant air quality analysis for applications having a maximum design capacity no more than the hazardous air pollutant emission threshold levels unless paragraph (12)(J)2. applies.

2. Exceptions. The director may require an air quality analysis for applications if it is likely that the construction or modification will result in the discharge of air contaminants in quantities, of characteristics and of a duration which directly and proximately cause or contribute to injury to human, plant, or animal life or the use of property or complaints filed in the vicinity of the proposed construction or modification warrant an air quality analysis.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods and Air Pollution Control Regulations for the Entire State of Missouri

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo Supp. 1998, the commission adopts a rule as follows:

10 CSR 10-6.220 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on May 3, 1999 (24 MoReg 1054–1056). Those sections with changes and typographical corrections are reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Air Pollution Control Program (APCP) received fifty-nine comments from nine sources: City Utilities of Springfield, UtiliCorp United, the U. S. Environmental Protection Agency (EPA), the Regulatory Environmental Group for Missouri (REGFORM), Associated Electric Cooperative, Inc., City of Independence Water Pollution Control Department, Missouri Limestone Producers Association, AMEREN Corporation and Associated General Contractors of Missouri, Inc. Similar comments on this proposed rule are grouped together and responded to with one response.

COMMENT: Three sources of comments stated that section (2) contains a set of definitions specific to this portion of the rule and prefer to see all these terms defined in the Definitions and Common Reference Tables rule 10 CSR 10-6.020.
RESPONSE: These definitions cannot be added to 10-6.020 Definitions and Common Reference Tables at this time because it is not opened for amendment. However, the department will consider this comment the next time rule 10 CSR 10-6.020 is opened for revision. Therefore, no wording changes have been made to the proposed rule as a result of this comment.

COMMENT: Seven sources of comments stated that subsection (3)(A) wording be changed to clarify that opacity limitations of this rule do not apply to fugitive sources such as storage piles and unpaved haul roads. These fugitive sources are already subject to property line restrictions described in 10 CSR 10-6.170 Restriction of Particulate Matter to the Ambient Air Beyond the Premises of Origin. Any attempt to incorporate a fugitive opacity rule in the current rulemaking effort would amount to increasing the stringency of an existing standard.
RESPONSE: The department does not intend for this proposed rule to be applicable to any additional sources than those sources that the existing area specific opacity rules are applicable to. The wording used in this proposed rule is similar to the existing rules to assure that the applicability would not change. Therefore, no wording changes have been made to the proposed rule as a result of this comment.

COMMENT: Two sources of comments stated that subsection (3)(H) includes two statements related to the terms source operat-

ing time and cycling time. They believe these terms should be considered definitions and incorporated in the Definitions section.
RESPONSE: The department views these terms as clarifying requirements applicable to Continuous Opacity Monitoring Systems (COMS) rather than definitions. The existing four area specific state rules have the term cycling time in a similar format in the COMS subsection of the rule. For consistency and ease in interpreting the COMS requirements, no wording changes have been made to the proposed rule as a result of this comment.

COMMENT: Five sources of comments stated that the test method for fugitive opacity proposed in subsection (5)(C) should be eliminated from this rule because this rule does not apply to fugitive emissions.
RESPONSE: Method 22 is the method used to determine visible emissions for non-metallic mineral processing facilities now exempted under subsection (1)(G) and this method must be included for cases where a facility's operating permit specifies Method 22 as a Method 9 substitute for everyday operation. It is not the department's intent to use Method 22 to determine fugitive visible emissions from fugitive sources that are subject to the property line restrictions of 10 CSR 10-6.170 Restriction of Particulate Matter to the Ambient Air Beyond the Premises of Origin. Therefore, no wording changes have been made to the proposed rule as a result of this comment.

COMMENT: One source commented that the asterisk note for the exception for St. Louis existing sources in subsection (3)(A) is not consistent with the existing rule 10 CSR 10-5.090 Restriction of Emission of Visible Air Contaminants and suggested a language revision.
RESPONSE AND EXPLANATION OF CHANGE: The department agrees that the language should be revised and has changed the requirements in the table including the wording of the note in subsection (3)(A).

COMMENT: One source commented that the title for subsection (3)(B) should be revised to include the term exceptions.
RESPONSE AND EXPLANATION OF CHANGE: The department agrees because the existing rules use this term. Therefore, the title for subsection (3)(B) has been revised.

COMMENT: One source commented that the double asterisk note in subsection (3)(B) should be modified and suggested a language revision.
RESPONSE AND EXPLANATION OF CHANGE: The department agrees that the language should be revised to accurately reflect the existing rule requirements and has changed the wording of this note.

COMMENT: One source commented that the triple asterisk note in subsection (3)(B) should be modified and suggested a language revision.
RESPONSE AND EXPLANATION OF CHANGE: After further review, it is evident that the exception would not apply to sources that emit less than twenty-five pounds of particulate matter other than incinerator sources. Because the sources it would not apply to are already limited to forty percent opacity, the department agrees that the triple asterisk note as proposed was not appropriate. For clarity, the triple asterisk note was removed from the proposed rule.

COMMENT: One source commented that subsection (3)(C) does not need to be explicitly stated in the rule.
RESPONSE: The department agrees that this language is not necessary. However, this language was added as a result of an industry request during the draft rule stage and does not change the requirements of the proposed rule. In addition, the department received four comments suggesting that the rule provide for the exemption of start-up and shut down procedures. Therefore, no wording changes have been made to the proposed rule as a result of this comment.

COMMENT: One source commented that it is their understanding that fluid bed catalytic cracking unit catalyst regenerators were not specifically listed in this rule because they are not subject sources.
RESPONSE: The department agrees with this comment. However, no wording changes are required to the proposed rule as a result of this comment.

COMMENT: One source recommends that paragraph (3)(H)5. be renamed to Alternative Monitoring Methods.
RESPONSE AND EXPLANATION OF CHANGE: The department agrees that the suggested paragraph name is a better choice of language and has renamed this paragraph as suggested.

COMMENT: One source recommends that the language in subsection (3)(H) be moved to section (4) to coincide with the format design of the rule.
RESPONSE: For new rules and major revisions to existing rules, the Air Pollution Control Program follows an established rule organization format. Based on this format, the general requirements should remain in section (3) which is intended for general rule requirements and the reporting and record keeping requirements should remain in section (4) which is intended for reporting and record keeping requirements. Therefore, no wording changes have been made to the proposed rule as a result of this comment.

COMMENT: One source commented that paragraph (3)(I)3. appears to be unnecessary given that this is not really a new rule but a consolidation of existing requirements in an existing rule.
RESPONSE AND EXPLANATION OF CHANGE: The department agrees and has removed this paragraph.

COMMENT: One source recommends that the department submit the rescission of the area specific rules with the statewide rule if it is adopted in order to minimize confusion.
RESPONSE: The department agrees. If the new proposed rule is adopted, the four area specific rule rescissions will be included together with the new proposed rule in the state implementation plan submittal to the EPA. No wording changes have been made to the proposed rule as a result of this comment.

COMMENT: One source commented that they support the department's efforts to consolidate these area specific rules into one single rule. However, they believe that it is not in the best interest to promulgate this proposed rule without a full presentation of the differences between the existing rules and the proposed rule. They request to defer any decision on this proposal until the department has explained the differences. Any substantive changes made in this proposed rule would warrant reconvening the Opacity workgroup.
RESPONSE: The department appreciates the comment support to consolidate the four area specific state rules into one single rule. We recognize that these comments were prepared prior to having the benefit of the presentation at public hearing that summarized the differences between the existing rules and the proposed rule. The earlier Opacity workgroup was formed with the main intent of overhauling the opacity rules including lowering the opacity limits and consolidating the existing rules into one rule. However, the department intends for this proposed rule to mainly consolidate the existing four rules without interjecting any significant new requirements. As mentioned at the public hearing presentation, other minor changes were made as part of the consolidation. For example, obsolete exemptions were removed, definitions were added for clarification and other changes, some by earlier comments, were

made where we regarded them to be insignificant. The department did summarize the non-substantive changes at the public hearing and does not intend to lower the opacity limits as part of this consolidation effort. It should be noted that some comments received during this comment period have resulted in some proposed revisions being deleted to assure that this proposed rule remains, as intended, mainly a consolidation of existing requirements. In addition, the source of this comment testified at public hearing that they don't want to delay the process unnecessarily. Therefore, we do not believe that the decision for adoption of the proposed rule should be deferred. No wording changes have been made to the proposed rule as a direct result of this comment. However, changes have been made in response to other comments received.

COMMENT: Three sources of comments stated that it should be stated on record which specific rules will be rescinded.
RESPONSE: During the public hearing on June 24, 1999, the department gave notice that this proposed rule consolidates the existing four area specific state rules from Chapters 2, 3, 4 and 5 of the *Code of State Regulations* into one state rule that is applicable statewide. The department does intend to rescind the following area specific state rules if this proposed rule is adopted: 10 CSR 10-2.060 Restriction of Emission of Visible Air Contaminants, 10 CSR 10-3.080 Restriction of Emission of Visible Air Contaminants, 10 CSR 10-4.060 Restriction of Emission of Visible Air Contaminants and 10 CSR 10-5.090 Restriction of Emission of Visible Air Contaminants. If the commission adopts this rule action, the department intends to submit this rule action to the EPA to replace the current rules that are in the Missouri State Implementation Plan. No wording changes have been made to the proposed rule as a result of this comment.

COMMENT: Three sources commented that subsection (1)(A) should be revised to remove the word mobile so that the exemption will be the same as the requirement in the existing rules.
RESPONSE AND EXPLANATION OF CHANGE: The department agrees that the word mobile can be removed with the language revisions made in this order of rulemaking.

COMMENT: Two sources commented that an exemption for all mobile sources of visible air contaminants should be added to section (1) because they believe visible emissions for mobile sources are regulated under other rules.
RESPONSE: The department believes that the language proposed in subsection (1)(A) of this order of rulemaking as a result of other comments reflects the current requirements of the existing area specific opacity rules. This recommendation should be deferred because it is more substantive than the consolidation effort. Therefore, no additional wording changes have been made to the proposed rule as a result of this comment.

COMMENT: Three sources of comments stated that the use of Methods 203, 203A and 203B in paragraphs (5)(A)2., (5)(A)3. and (5)(A)4. which have not been granted final approval by the EPA could result in an unenforceable rule.
RESPONSE: As stated at the public hearing, CFR Methods 203, 203A and 203B were proposed in the *Federal Register* as recommended test methods for intended uses in state implementation plans. Proposed rule subsection (3)(F), as written, does not require the use of these methods but the department is not opposed to any source using them as the EPA intended. When these test methods are final, the department plans to update this rule accordingly. Therefore, no wording changes have been made to the proposed rule as a result of this comment.

COMMENT: Two sources of comments stated that Method 22 in subsection (5)(B) should be removed from the rule because this test method applies to mobile internal combustion engines which are exempt from this rule.
RESPONSE: Mobile internal combustion engines must meet the requirements of rules 10 CSR 10-2.080 and 10 CSR 10-5.180. Method 22 is included in this section as a reference only. It is the intended test method for determining visible emissions for mobile internal combustion engines and is included as a convenient source for anyone referencing this rule for opacity requirements. Therefore, no wording changes have been made to the proposed rule as a result of this comment.

COMMENT: Four sources of comments stated that this rule does not provide an exemption for start-up and shut down conditions and suggest that it be added to the rule.
RESPONSE AND EXPLANATION OF CHANGE: An exemption for these conditions is covered in subsection (3)(C). The exemption must be approved by the director in accordance with rule 10 CSR 10-6.050. As a result of this comment, the title of the rule was added for clarity.

COMMENT: One source commented that 40 CFR 60, Performance Specification 1 (PS1) is currently being revised by the EPA. They expect that specification revisions will require some changes to COMS equipment design, production or testing procedures. Therefore, it is requested that provision be added to the rule to explain how the transition will be handled from the perspective of compliance.
RESPONSE: This rule requirement is the same requirement currently in the existing area specific rules. Revisions to PS1 have been proposed twice by the EPA. The EPA is currently reviewing comments on the second proposal and has not established a final action date. In addition, when these rules are finalized they typically have grandfathering clauses that exempt existing equipment that is already installed. To make any change at this time, in anticipation of a change, that may or may not come about would be premature. Therefore, no wording changes have been made to the proposed rule as a result of this comment.

COMMENT: Two sources commented that the paragraph (4)(B)2. requirement to maintain all data collected by the COMS for two years should be revised to clarify that this is all six-minute opacity averages and daily Quality Assurance (QA)/Quality Control (QC) records.
RESPONSE AND EXPLANATION OF CHANGE: The department agrees that clarification is required and has revised this paragraph as suggested.

COMMENT: One source commented that the subsection (3)(G) requirement for the department's qualified observer measurement to take precedence over a non-department qualified observer measurement should be revised to allow any qualified observer reading as meeting this requirement.
RESPONSE: The department received earlier comments requesting that qualified observer readings be allowed as a temporary substitute if a COMS is malfunctioning. We have added this requirement as requested with the condition that a department's qualified observer measurement would take precedence over a non-department qualified observer measurement should this dilemma ever arise in the field. Without language covering this situation, the department would be reluctant to allow qualified observer readings as a temporary substitute for facilities that are required to use COMS for measurements. Therefore, no wording changes have been made to the proposed rule as a result of this comment.

COMMENT: Two sources commented that subsection (3)(B) should be revised to add a time frame to the exclusion requirement to define how often the exclusion is allowed. Both sources recommended a sixty-minute time frame.

RESPONSE AND EXPLANATION OF CHANGE: The department agrees and has revised the language in this subsection to add a sixty-minute time frame.

COMMENT: One source commented that the exception for incinerators in the Kansas City Metropolitan Area and Springfield-Greene County should be deleted from subsection (3)(D). The presence of uncombined water should not be deemed a violation of the visible air contaminant rule for any emission source because water vapor is not a vapor contaminant.

RESPONSE AND EXPLANATION OF CHANGE: The department wrote these requirements exactly as they appear in the existing area specific rules. However, based on this comment, we have revised the language as recommended.

COMMENT: Four sources commented that the implementation of the proposed rule should be delayed or withdrawn because enough differences exist between the proposed rule and the existing rules to justify reconvening or forming a new Opacity Workgroup.

RESPONSE: The department would agree that reconvening or forming a new Opacity Workgroup would be required in order to implement substantive changes, such as lowering opacity limitations, to the existing requirements. The department decided at this time that it would be prudent to only consolidate the existing area specific opacity state rules into one rule that is applicable statewide. Consolidation of existing requirements does not require a workgroup. The department has consolidated the existing opacity rules into one statewide rule while also taking into consideration those comments that were brought up during earlier workgroup meetings. This approach simplifies Title V compliance and clarifies statewide visible emission requirements and exemptions. As a result of comments received during this open comment period, the department has further revised the proposed rule language to result in a reasonable middle-of-the-road approach to a consolidated rule. The department believes that the rule language proposed in this order of rulemaking as a result of other comments provides a good consolidated proposed rule and should not be withdrawn or delayed. Therefore, no wording changes have been made to the proposed rule as a result of this comment.

COMMENT: One source commented that the violations section of the rule that was included in an early draft rule that was derived during the Opacity Workgroup is missing from the proposed rule.

RESPONSE: The department did not include the violations section mentioned because, as stated during public hearing and elsewhere in these responses to comments, this proposed rule was not intended to include substantive changes. Due to the controversy on this subject during the workgroup meetings, this topic was considered a substantive change that did not belong in the consolidation effort. Therefore, no wording changes have been made to the proposed rule as a result of this comment.

COMMENT: Two sources commented that the rule private entity cost statement does not reflect the financial impact that affected sources could be forced to withstand in order to comply with the proposed rule as written.

RESPONSE: As stated in other responses to comments, this rule is not intended to result in any substantive requirements in addition to the current requirements in the existing area specific rules. To assure that this is the case, we have made additional changes to the rule language as a result of comments made during the open public comment period and do not anticipate any substantial financial impact. Therefore, no changes have been made to the estimated cost statements as a result of this comment.

10 CSR 10-6.220 Restriction of Emission of Visible Air Contaminants

(1) Applicability. This rule applies to all sources of visible emissions throughout the state of Missouri with the exception of the following:

(A) Internal combustion engines except as provided in rules 10 CSR 10-2.080 and 10 CSR 10-5.180;

(2) Definitions.

(E) Six-minute period—A three hundred sixty (360) consecutive second time interval. Six-minute block averages per 40 CFR Part 60, Performance Specification 1 shall be utilized for COMS data.

(3) General Provisions.

(A) Maximum Visible Emissions Limitations. Unless specified otherwise in this rule, no owner or other person shall cause or permit to be discharged into the atmosphere from any source, not exempted under this rule, any visible emissions greater than the limitations in the following table:

Area of State	Visible Emission Limitations	
	Existing Sources	New Sources
Kansas City Metropolitan Area	20%	20%
St. Louis Metropolitan Area	20%*	20%
Springfield-Greene County Area	40%	20%
Outstate Area	40%	20%

*Exception: Existing sources in the St. Louis metropolitan area that are not incinerators and emit less than twenty-five (25) lbs/hr of particulate matter shall be limited to forty percent (40%) opacity.

(B) Visible Emissions Limitations, Exceptions Allowed In One Six-Minute Period. The visible emissions limitations in the following table shall be allowed for a period not aggregating more than one six-minute period in any sixty (60) minutes:

Area of State	**Visible Emission Limitations, Exceptions**	
	Existing Sources	**New Sources**
Kansas City Metropolitan Area	60%**	60%**
St. Louis Metropolitan Area	40%	40%
Springfield-Greene County Area	60%**	60%**
Outstate Area	60%	60%

** This exception does not apply to existing and new incinerators in the Kansas City metropolitan area and Springfield-Greene County.

(C) Visible emissions over the limitations shown in subsection (3)(B) of this rule are in violation of this rule unless the director determines that the excess emissions do not warrant enforcement action based on data submitted under 10 CSR 10-6.050 Start-Up, Shutdown and Malfunction Conditions.

(D) Failure to meet the requirements of subsection (3)(A) solely because of the presence of uncombined water shall not be a violation of this rule.

(H) Continuous Opacity Monitoring Systems (COMS) General Requirements.

1. Source operating time includes any time fuel is being combusted and/or a fan is being operated.

2. Cycling time. Cycling times include the total time a monitoring system requires to sample, analyze and record an emission measurement. Continuous monitoring systems for measuring opacity shall complete a minimum of one (1) cycle of operation (sampling, analyzing and data recording) for each successive ten-second period.

3. Certification. All COMS shall be certified by the director after review and acceptance of a demonstration of conformance with 40 CFR Part 60, Appendix B, Performance Specification 1.

4. Audit Authority. All COMS shall be subject to audits conducted by the department, and all COMS records shall be made available upon request to department personnel.

5. Alternative monitoring methods. All alternative monitoring systems requirements, system locations and procedures for

operation and maintenance which do not meet the requirements of this rule must be approved by the staff director. Submittals for approval determination must—

A. Demonstrate that a requirement of subsection (3)(H), (4)(A) and/or (4)(B) of this rule cannot be practically met; and

B. Demonstrate that the alternative produces results that adequately verify compliance.

(I) Time Schedule for Compliance.

1. All new sources shall comply when operations begin; and

2. All existing sources shall comply as of the effective date of this rule.

(4) Reporting and Record Keeping.

(A) COMS Reporting. Owners or operators of sources required to install COMS shall submit a quarterly written report to the director. All quarterly reports shall be postmarked no later than the thirtieth day following the end of each calendar quarter and shall include the following emissions data:

1. A summary including total time for each cause of excess emissions and/or monitor downtime;

2. Nature and cause of excess emissions, if known;

3. The six-minute average opacity values greater than the opacity emission requirements (The average of the values shall be obtained by using the procedures specified in the Reference Method used to determine the opacity of the visible emissions);

4. The date and time identifying each period during which the COMS was inoperative (except for zero and span checks), including the nature and frequency of system repairs or adjustments that were made during these times; and

5. If no excess emissions have occurred during the reporting period and the COMS has not been inoperative, repaired or adjusted, this information shall be stated in the report.

(B) COMS Records to be Maintained. Owners or operators of affected sources shall maintain a file (hard copy or electronic version) of the following information for a minimum of two (2) years from the date the data was collected:

1. All information reported in the quarterly summaries; and

2. All six-minute opacity averages and daily Quality Assurance (QA)/Quality Control (QC) records.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods and Air Pollution Control Regulations for the Entire State of Missouri

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo Supp. 1998, the commission rescinds a rule as follows:

10 CSR 10-6.230 Administrative Penalties **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 17, 1999 (24 MoReg 1215). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Air Pollution Control Program did not receive any comments on the proposed rescission.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods and Air Pollution Control Regulations for the Entire State of Missouri

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo Supp. 1998, the commission adopts a rule as follows:

10 CSR 10-6.230 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on May 17, 1999 (24 MoReg 1215–1224). The subsection with a typographical correction is reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Air Pollution Control Program (APCP) received written comments from the Regulatory Environmental Group For Missouri (REGFORM). Testimony was presented on behalf of the following groups: Associated Industries of Missouri (AIM) and REGFORM.

COMMENT: REGFORM commented that in subsection (6)(D) that the economic benefit portion of the proposed rule was inappropriately revised to state that economic benefits will, as opposed to may, be added to the penalty amount.
RESPONSE: The APCP feels it is important to attach economic benefits to all penalties where it is appropriate. Paragraphs (6)(D)1., 2., and 3. give the Department adequate discretion to determine where economic benefit is not appropriate. No wording changes have been made to the proposed rule as a result of this comment.

COMMENT: REGFORM commented that in subparagraph (6)(E)3.D. which includes whether the violator knew or should have known about the violated requirement is confusing, arbitrary, and has no apparent rational basis for being included.
RESPONSE: The APCP disagrees with this comment. The APCP believes that subparagraph (6)(E)3.D. further defines and explains the criteria that will be used to determine a violator's culpability. For example, an inspector provides a facility with a written interpretation specific to their operation. Failure to follow that interpretation would be described as "knew or should have known." No wording changes have been made to the proposed rule as a result of this comment.

COMMENT: REGFORM commented that the provision for Supplemental Environmental Projects (SEPs) had been removed from the proposed rule.
RESPONSE: The Department has decided to remove that specific language from all Program Administrative Rules. However, nothing in the regulation prohibits using SEPs, if appropriate. No wording changes have been made to the proposed rule as a result of this comment to provide more predictability.

COMMENT: REGFORM commented that the proposed rule should include multi-day matrices in the same manner that is included in both the Hazardous Waste and Underground Storage Tank (existing and proposed) administrative penalty rules to provide more predictability.
RESPONSE AND EXPLANATION OF CHANGE: The APCP believes that the Gravity-Based Penalty Assessment Matrix in paragraph (6)(A)3. of the proposed rule provides the basis to determine an equitable administrative penalty. The amount multiplied by the

number of days of violation is predictable. Therefore, the only change made to the proposed rule as a result of this comment is the typographical error correction in the matrix.

COMMENT: REGFORM commented that no explanation is provided as to why the APCP administrative penalties are higher than other programs' administrative penalties.
RESPONSE: The APCP's administrative penalties are consistent with 643.151.3, RSMo which establishes the penalty limits. No wording changes have been made to the proposed rule as a result of this comment.

COMMENT: During review of this comment, staff observed that a typographical error was made when the proposed rulemaking was published in the *Missouri Register*.
RESPONSE AND EXPLANATION OF CHANGE: For consistency, the format for section (4) and (5) has been revised.

10 CSR 10-6.230 Administrative Penalties

(4) Reporting and Record Keeping. *(Not Applicable)*

(5) Test Methods. *(Not Applicable)*

(6) Determination of Penalties. The amount of an administrative penalty will involve the application of a gravity-based assessment under subsection (6)(A) and may involve additional factors for multiple violations, (6)(B), multi-day violations, (6)(C) and economic benefit resulting from noncompliance, (6)(D). The resulting administrative penalty may be further adjusted as specified under (6)(E).

(A) Gravity-Based Assessment. The gravity-based assessment is determined by evaluating the potential for harm posed by the violation and the extent to which the violation deviates from the requirements of the Missouri Air Conservation Law.

1. Potential for harm. The potential for harm posed by a violation is based on the risk to human health, safety or the environment or to the purposes of implementing the Missouri Air Conservation Law and associated rules or permits.

A. The risk of exposure is dependent on both the likelihood that humans or the environment may be exposed to contaminants and the degree of potential exposure. Penalties will reflect the probability the violation either did result in or could have resulted in a release of contaminants in the environment, and the harm which either did occur or would have occurred if the release had in fact occurred.

B. Violations which may or may not pose a potential threat to human health or the environment, but which have an adverse effect upon the purposes of or procedures for implementing the Missouri Air Conservation Law and associated rules or permits may be assessed a penalty.

C. The potential for harm shall be evaluated according to the following degrees of severity:

(I) Major. The violation poses or may pose a substantial risk to human health and safety or to the environment, or has or may have a substantial adverse effect on the purposes of or procedures for implementing the Missouri Air Conservation Law and associated rules and/or permits;

(II) Moderate. The violation poses or may pose a significant risk to human health and safety or to the environment, or has or may have a significant adverse effect on the purposes of or procedures for implementing the Missouri Air Conservation Law and associated rules and/or permits; and

(III) Minor. The violation does not pose significant or substantial risk to human health and safety or to the environment, was not knowingly committed, and is not defined by the United States Environmental Protection Agency as other than minor.

2. Extent of deviation. The extent of deviation may range from slight to total disregard of the requirements of the Missouri Air Conservation Law and associated rules and/or permits. The assessment will reflect this range and will be evaluated according to the following degrees of severity:

A. Major. The violator has deviated substantially from the requirements of the Missouri Air Conservation Law, associated rules, or permits resulting in substantial noncompliance;

B. Moderate. The violator has deviated significantly from the requirements of the Missouri Air Conservation Law, associated rules, or permits resulting in significant noncompliance; and

C. Minor. The violator has deviated slightly from the requirements of the Missouri Air Conservation Law, associated rules, or permits that does not result in substantial or significant noncompliance; most provisions were implemented as intended; the violation was not knowingly committed; and is not defined by the United States Environmental Protection Agency as other than minor.

3. Gravity-based penalty assessment matrix. The matrix that follows will be used to determine the gravity-based assessment portion of the administrative penalty. Potential for harm and extent of deviation form the axes of the matrix. The penalty range selected may be adapted to the circumstances of a particular violation.

Gravity-Based Penalty Assessment Matrix

Potential for Harm	Extent of Deviation		
	Major	Moderate	Minor
Major	$10,000 to $8,750	$8,750 to $7,500	$7,500 to $6,250
Moderate	$6,250 to $5,000	$5,000 to $3,750	$3,750 to $2,500
Minor	$2,500 to $1,250	$1,250 to $500	$0

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 7—Water Quality

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission under section 644.026, RSMo Supp. 1998, the commission amends a rule as follows:

10 CSR 20-7.015 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 1, 1999 (24 MoReg 879–885). Changes have been made to the proposed amendment and those changes are reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held May 12, 1999. All comments received during the public hearing and the public comment period were considered.

COMMENT: The cities of Springfield, Nixa, Branson and Kimberling City, along with a group of other cities within the region, support the removal of phosphorus from Table Rock Lake.
RESPONSE: No response required.

COMMENT: Remove the phrase "as soon as possible" from paragraph (3)(G)2.–4.
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees and the phrase "as soon as possible" has been removed from the proposed changes.

COMMENT: The Missouri Constitution, Section 21, Article 10 prohibits the establishment of regulations that mandate local governments to increase a level of activity or service without providing compensation.
RESPONSE: Legal staff has reviewed the legal argument presented and has concluded that the commission has the authority to proceed without providing compensation. No changes are made.

COMMENT: Something must also be done with nonpoint source phosphorus contributions as well as phosphorus contributed from Arkansas.
RESPONSE: The department is focusing a major part of the state's nonpoint source effort into the James River Basin. The department is also communicating with its counterpart in Arkansas on nutrient issues. While the commission recognizes the importance of this work for the protection of Table Rock Lake, this rulemaking is directed and limited toward the control of point sources in Missouri. No changes are made.

COMMENT: This problem is not new. It was known in 1977 when scuba diving was common in Table Rock Lake. The commission was urged to move on this at an expedited pace. As an option to the "as soon as possible" language it was suggested that conditions be put in permits to require a showing of a rate of progress toward achievement.
RESPONSE: Schedules for upgrading can be negotiated and put into permits as long as the final date of compliance does not exceed the date adopted by the commission in rule. No additional regulatory language is needed and no changes are made.

COMMENT: Only one tier is allowed for wastewater treatment facilities above a design flow of 1.0 million gallons per day (MGD) flow.
RESPONSE: Such a change would delay phosphorus reduction by three cities from four years to eight. The commission has made no change in order to achieve phosphorus contribution to the lake as soon as possible.

COMMENT: It was requested that the proposed 0.5 mg/l phosphorus effluent limit not be adopted until such time as the necessary water quality or engineering studies are accomplished, a scientific basis for decision making established, and the allowable phosphorus load equitably distributed among all point and nonpoint source discharges in the watershed.
RESPONSE: The commission believes the conditions of reduced water clarity, abundant algal production and potentially catastrophic reduction of dissolved oxygen levels in Table Rock Lake are directly related to the concentration of phosphorus in the lake. The commission also believes there is a long-term decline in the water quality of Table Rock Lake that is related to the increase in phosphorus. The direct impacts of specific sources could be better delineated and loads of phosphorus better apportioned after several additional years of monitoring and modeling the watershed. However, the local leadership of the area has expressed an unequivocal interest in reducing pollution in an effort to reverse the historical trend at the earliest opportunity, even though additional study may result in more equitable means for dealing with the problem. The work group concluded that this proposed rulemaking was in the best interest of the local community and local economy, recognizing that it may be an imperfect tool. No change to the proposed amendment is made.

COMMENT: The following comment is not related to the proposed addition of phosphorus limitations but to other portions of the Effluent Regulations. The Effluent Regulations establish a limit of 45 mg/l for treatment facilities that provide at least primary treatment during a precipitation event and that discharge on a noncontinuous basis. In our view, 45/45 limits are inappropriate for wet weather discharges receiving primary treatment because they are not technology-based limits. It is our experience that 45/45 limits cannot be achieved on a consistent basis utilizing primary treatment.
RESPONSE: This portion of the rule is not open for amendment. The department has initiated the process of amending the rule by soliciting public input. No change to the proposed amendment is made.

COMMENT: The James River Basin Partnership voted unanimously to send the strongest letter of support possible for the proposed amendment.
RESPONSE: No response required.

COMMENT: We would like to offer the support of the Missouri Department of Conservation toward adoption of the proposed amendment to the Effluent Regulations. The biological effects of excess nutrients in Table Rock Lake have been documented and long suspected as a cause of the low dissolved oxygen problems in Lake Taneycomo during late summer and fall. Both lakes are too valuable as recreational resources to be jeopardized.
RESPONSE: No response required.

COMMENT: Any community with a flow rate of less than 100,000 gallons per day should be exempt from phosphorus regulation. These communities discharge only a few pounds of phosphorus per day as compared to the hundreds of pounds per day discharged by Springfield. The cost of phosphorus removal is beyond the scope or income.
RESPONSE: The rule was drafted with a longer compliance period for smaller discharges, and this was intended to address some of the economic needs of smaller communities. The commission agrees that these smaller facilities account for a much smaller portion of the problem than the very large communities. At the same time, most communities in the watershed are continuing to grow and thus increase their contributions to the phosphorus load. The commission does believe that existing facilities with a design flow under 22,500 gallons per day should be exempted.

COMMENT: The existing rule exempts facilities with a design flow of 22,500 gallons per day. It may not be physically possible or economically practicable to provide phosphorus removal facilities on these very small facilities and/or lagoons. The aggregate contribution (in pounds per day) to Table Rock Lake from all facilities which discharge less than 22,500 gallons per day is considered to be very small, and insignificant to the flow contribution to the lake.
COMMENT: A more realistic level of 1.5 to 2.0 mg/l of phosphorus for small plants is a far better cost-effective approach. At these levels, the need for filters required for a limit of 0.5 mg/l will not be required, which will reduce the capital cost/financing cost and eliminate the high cost of the filtering equipment.
RESPONSE: The commission recognizes that these smaller facilities account for a much smaller portion of the problem than the very large communities. As a result, the commission believes existing facilities with a design flow of less than 22,500 gallons per day should be exempt.

COMMENT: Perhaps the exclusion of these very small facilities is already considered (if not stated) because the fiscal note attached to the proposal indicates fewer facilities than on another listing.

RESPONSE: The variation in numbers is due to several factors such as facilities that were issued construction permits but that were not built and storm water permits that are not anticipated to be affected by the proposed rulemaking. No change is made.

COMMENT: The Table Rock Lake/Kimberling City Area Chamber of Commerce Board of Directors voted unanimously to support the proposal for phosphorus control for wastewater discharges to Table Rock Lake and its watershed, as submitted by the Department of Natural Resources appointed work group.

RESPONSE: No response required.

COMMENT: The proposed regulations will impose a financial burden upon the citizens of many small communities in the watershed of Table Rock Lake. This cost is not justified because these communities contribute a small portion of the phosphorus. These communities are also having to deal with the cost of expanding wastewater treatment facilities because of population and commercial growth. In one case, the cost of phosphorus removal increases the anticipated sewer rate for a proposed new sewer system that a community is attempting to construct by $6.25 from $20.60 to $26.85. This jeopardizes the affordability of the project for the community.

RESPONSE: It is correct that a significant cost is associated with the proposed rulemaking. This cost will in most cases be more for citizens of small communities. For example, the City of Cassville estimates an increase in the average residential household sewer bill from $8.50 to $18.25. The City of Galena estimates the average residential cost will go from $18.75 to $33.00. It is also correct that the majority of the phosphorus comes from the City of Springfield, nonpoint sources and from the State of Arkansas. The phosphorus work group understood this proposal had a significant cost associated with it and that smaller wastewater facilities did not contribute a large amount of the total phosphorus. They still felt that is was necessary to include all wastewater treatment facilities and to apply the 0.5 mg/l limit to all. The rapid rate of growth in the watershed was one reason why they concluded that all discharges should be controlled. They also felt that all contributors to the problem should be responsible for contributing to the solution. They did decide the date for compliance could be delayed for eight years for small systems.

COMMENT: The 0.5 mg/l limit of phosphorus from point source discharges is too low. It is more stringent than what is needed to correct the diminishing water quality in Table Rock Lake resulting from point source pollutants.

RESPONSE: The phosphorus work group considered the long-range impacts of phosphorus on Table Rock Lake and felt it was necessary to establish the limit of 0.5 mg/l instead of the less costly limit of 1.0 mg/l. No change is made except the previously discussed exemption for existing small flows.

COMMENT: The commission should adopt a 1.0 mg/l discharge limit on phosphorus instead of 0.5 mg/l. This can be achieved with the addition of chemicals without the costly installation of filtration. The cost of reduction from 1.0 to 0.5 mg/l of phosphorus is not justified.

RESPONSE: The phosphorus work group decided that the long-term impacts to Table Rock Lake, especially considering the rapid growth, justifies the lower limit. No change is made except the previously discussed exemption for existing small flows.

COMMENT: The commission should provide a longer time frame for compliance with the proposed regulation.

RESPONSE: Compliance times of four years and eight years, depending upon facility size are reasonable. No change is made.

10 CSR 20-7.015 Effluent Regulations

(3) Effluent Limitations for the Lakes and Reservoirs.

(G) In addition to other requirements in this section, discharges to Table Rock Lake watershed, defined as hydrologic units numbered 11010001 and 11010002, shall not exceed five-tenths milligrams per liter (0.5 mg/l) of phosphorus as a monthly average according to the following schedules except as noted in paragraph (3)(G)5.:

1. Any new discharge shall comply with this new requirement upon the start of operations;

2. Any existing discharge, or any sum of discharges operated by a single continuing authority, with a design flow of 1.0 MGD or greater shall comply no later than four (4) years after the effective date of this rule;

3. Any existing discharge, or any sum of discharges operated by a single continuing authority, with a design flow of 0.1 MGD or greater, but less than 1.0 MGD, shall comply no later than eight (8) years after the effective date of this rule, and shall not exceed one milligram per liter (1.0 mg/l) as a monthly average as soon as possible and no later than four (4) years after the effective date of this rule;

4. Any existing discharge with a design flow of twenty-two thousand five hundred gallons per day (22,500 gpd) or greater but less than 0.1 MGD shall comply no later than eight (8) years after the effective date of this rule;

5. Any existing discharge with a design flow of less than twenty-two thousand five hundred gallons per day (22,500 gpd) permitted prior to the effective date of this rule shall be exempt from this requirement unless the design flow is increased; and

6. Any existing discharge in which the design flow is increased shall comply according to the schedule applicable to the final design flow.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 100—Petroleum Storage Tank Insurance Fund Board of Trustees
Chapter 1—General Organization

ORDER OF RULEMAKING

By the authority vested in the Missouri Petroleum Storage Tank Insurance Fund Board of Trustees under sections 319.129 and 536.023, RSMo Supp. 1998, the board adopts a rule as follows:

10 CSR 100-1.010 Organization **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on May 3, 1999 (24 MoReg 1063–1064). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing was held on June 16, 1999 to receive testimony on this and other rules. Carol R. Eighmey, Executive Director for the Petroleum Storage Tank Insurance Fund, testified regarding the general process used to develop this and other rules. No other comments were received at the hearing. Two written comments were received.

COMMENT: Ric Telthorst, Executive Director of the Missouri Oil Council, and John Pelzer, Executive Vice President of the Missouri Petroleum Marketers and Convenience Store

Association, commended the Board for the process used to develop this and its other rules.
RESPONSE: The Petroleum Storage Tank Insurance Fund Board of Trustees notes and appreciates the affirmation.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 100—Petroleum Storage Tank Insurance Fund Board of Trustees
Chapter 2—Definitions

ORDER OF RULEMAKING

By the authority vested in the Missouri Petroleum Storage Tank Insurance Fund Board of Trustees under section 319.129, RSMo Supp. 1998, the board adopts a rule as follows:

10 CSR 100-2.010 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on May 3, 1999 (24 MoReg 1065–1066). The only section with a change is reprinted herein. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing was held on June 16, 1999 to receive testimony on this and other rules. Carol R. Eighmey, Executive Director for the Petroleum Storage Tank Insurance Fund, testified regarding the general process used to develop this and other rules. One other comment was received at the hearing, and the same comment was submitted in writing by another party.

COMMENT: It was suggested that the definition of "pipeline terminal" be amended, since most pipeline terminals, including all in Missouri, are located along a pipeline, not at the end of a pipeline.
RESPONSE AND EXPLANATION OF CHANGE: The Petroleum Storage Tank Insurance Fund Board of Trustees concurs with this suggestion and has deleted the phrase, "and which serves as the end of the pipeline."

10 CSR 100-2.010 Definitions

(14) "Pipeline terminal" means a large storage facility which receives product via pipeline.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 100—Petroleum Storage Tank Insurance Fund Board of Trustees
Chapter 3—Transport Load Fee

ORDER OF RULEMAKING

By the authority vested in the Missouri Petroleum Storage Tank Insurance Fund Board of Trustees under sections 319.129 and 319.132, RSMo Supp. 1998, the board adopts a rule as follows:

10 CSR 100-3.010 Assessment of Transport Load Fee **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on May 3, 1999 (24 MoReg 1066–1068). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing was held on June 16, 1999 to receive testimony on this and other rules. Carol R. Eighmey, Executive Director for the Petroleum Storage Tank Insurance Fund, testified regarding the general process used to develop this and other rules. No other comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 100—Petroleum Storage Tank Insurance Fund Board of Trustees
Chapter 4—Participation Requirements

ORDER OF RULEMAKING

By the authority vested in the Missouri Petroleum Storage Tank Insurance Fund Board of Trustees under sections 319.129, 319.131 and 319.133, RSMo Supp. 1998, the board adopts a rule as follows:

10 CSR 100-4.010 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on May 3, 1999 (24 MoReg 1069–1074). Changes have been made in the text of the proposed rule, so that section is reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing was held on June 16, 1999 to receive testimony on this and other rules. Carol R. Eighmey, Executive Director for the Petroleum Storage Tank Insurance Fund, testified regarding the general process used to develop this and other rules. One other comment from Mr. Ric Telthorst, Executive Director of the Missouri Oil Council, was received at the hearing; the same comment was submitted in writing by David Shorr, attorney for BP Amoco. A second written comment was received from the Department of Natural Resources.

COMMENT: It was suggested by Mr. Telthorst and Mr. Shorr that the rule be expanded to explicitly state that the owner of a site insured by the Fund can receive a pro-rated refund of unused participation fees if ownership of the site changes, the existing policy is transferred to the new owner, and the new owner pays a fee covering the remainder of the policy term.
RESPONSE: The Board notes that this procedure is acceptable and has occasionally been used, although—due to the fact that participation fees are so low—the amount of money involved is so small as to make it hardly worthwhile. Nothing in the rule prohibits this procedure. The rule simply restates a statutory provision to make it clear that the Board will not charge participation fees to two parties to cover the same period of time. Therefore, the Board of Trustees does not believe any change to the proposed rule is necessary to accommodate this situation.

COMMENT: The Department of Natural Resources' Division of Environmental Quality suggested that the requirements for participation in the Fund which appear in the statute be repeated verbatim in the rule.
RESPONSE AND EXPLANATION OF CHANGE: The Board inserted the statutory language as (2)(B) and relabeled the rest of the subsections.

10 CSR 100-4.010 Participation Requirements for Underground Storage Tanks

(2) The following procedures shall be utilized to apply for insurance coverage for underground storage tanks which are in use or temporarily closed in accordance with 10 CSR 20-10.070:

(A) Any owner or operator who wishes to participate in the fund shall so indicate by applying for coverage on a form specified by the board;

(B) Applications shall include a certification that the petroleum tanks meet or exceed and are in compliance with all technical standards established by the U.S. Environmental Protection Agency, and rules established by the Missouri Department of Natural Resources and the Missouri Department of Agriculture;

(C) An application form shall be submitted for each site for which an owner desires coverage;

(D) Applications shall include information on all tanks known to exist at the site, including aboveground storage tanks and underground storage tanks which contain a hazardous substance, or which are temporarily closed, out of use, or permanently closed in place;

(E) Applications shall include documentation as required by the board to demonstrate that the applicant has a reasonable assurance of the integrity of all USTs on the site which are in use or temporarily closed. This documentation shall include:

1. A minimum of two (2) months' leak detection records;

2. Evidence that pressurized lines are equipped with line leak detectors which are in working order, unless the entire UST system is a double-wall system, and monitoring devices are adequate to detect a leak;

3. Evidence that the cathodic protection system, if any, is functioning properly;

4. Evidence that the tank lining, if any, has been properly installed and inspected according to accepted industry practices;

5. Evidence that the UST is equipped with corrosion protection and spill/overfill prevention devices, as required in 10 CSR 20-10;

6. Line and/or tank tightness tests, as required in 10 CSR 20-10; and

7. Any other documentation as may reasonably be required by the board;

(F) Applications shall also include documentation as required by the board in order to demonstrate that the applicant has the ability to pay the first ten thousand dollars ($10,000) in the event he or she makes a claim for benefits from the fund.

1. For non-public entities, such documentation shall include:

A. A letter of credit for this amount from a federally-insured financial institution in the favor of the Petroleum Storage Tank Insurance Fund;

B. One (1) or more certificates of deposit which total this amount. The applicant shall submit documentation from the custodian of such certificates that assures the fund of their existence and preservation for the purposes described herein;

C. Financial statements indicating that the net worth of the applicant is at least one hundred thousand dollars ($100,000), or that the applicant has at least fifty thousand dollars ($50,000) working capital;

D. A written guarantee from another person or entity demonstrating the ability to pay this amount in a manner outlined in this rule. The provider of the guarantee shall disclose the relationship between that person or entity and the applicant;

E. A letter signed by an officer of a federally-insured financial institution attesting to the ability of the applicant to pay this amount; or

F. Any other method determined by the board to be reasonable and sufficient.

2. For public entities, documentation requirements are as follows:

A. Cities with a population greater than three thousand (3,000), none;

B. Cities participating in the State Revolving Loan Fund (SRF) administered by the Department of Natural Resources, none. The board will review documents submitted to the SRF, as needed;

C. Cities with a population of three thousand (3,000) or less, a copy of the most recent annual audit of the city's finances, or a current set of financial statements;

D. First class or second class counties, or charter counties, none;

E. Third class counties, a copy of the most recent annual audit of the county's finances, or a current set of financial statements; or

F. Schools, sewer districts, fire districts, and other similar entities, a copy of current financial statements; and

(G) The board shall review applications within thirty (30) days of receipt, and shall respond to such applications in writing with a notice of acceptance, a request for clarification or information, or a rejection of the application.

1. If the response is a notice of acceptance, it shall include the effective date and period of coverage.

2. If the response is a request for clarification or information, it shall specify a date by which the applicant must respond.

3. If the response is a rejection, it shall identify the additional information needed or list the reason(s) coverage is being denied. If the applicant submitted participation and/or one (1)-time fees with the application, the fees shall be returned or refunded.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 100—Petroleum Storage Tank Insurance Fund Board of Trustees
Chapter 4—Participation Requirements

ORDER OF RULEMAKING

By the authority vested in the Missouri Petroleum Storage Tank Insurance Fund Board of Trustees under sections 319.129, 319.131 and 319.133, RSMo Supp. 1998, the board adopts a rule as follows:

10 CSR 100-4.020 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on May 3, 1999 (24 MoReg 1075–1080). Changes have been made in the text of the proposed rule, so that section is reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing was held on June 16, 1999 to receive testimony on this and other rules. Carol R. Eighmey, Executive Director for the Petroleum Storage Tank Insurance Fund, testified regarding the general process used to develop this and other rules. One other comment from Mr. Ric Telthorst, Executive Director of the Missouri Oil Council, was received at the hearing; the same comment was submitted in writing by David Shorr, attorney for BP Amoco. A second written comment was received from the Department of Natural Resources.

COMMENT: It was suggested by Mr. Telthorst and Mr. Shorr that the rule be expanded to explicitly state that the owner of a site insured by the Fund can receive a pro-rated refund of unused participation fees if ownership of the site changes, the existing policy is transferred to the new owner, and the new owner pays a fee covering the remainder of the policy term.

RESPONSE: The Board notes that this procedure is acceptable and has occasionally been used, although—due to the fact that participation fees are so low—the amount of money involved is so small as to make it hardly worthwhile. Nothing in the rule prohibits this procedure. The rule simply restates a statutory provision to make it clear that the Board will not charge participation

fees to two parties to cover the same period of time. Therefore, the Board of Trustees does not believe any change to the proposed rule is necessary to accommodate this situation.

COMMENT: The Department of Natural Resources' Division of Environmental Quality suggested that the requirements for participation in the Fund which appear in the statute be repeated verbatim in the rule.
RESPONSE AND EXPLANATION OF CHANGE: The Board inserted the statutory language as (2)(B) and relabeled the rest of the subsections.

10 CSR 100-4.020 Participation Requirements for Aboveground Storage Tanks

(2) The following procedures shall be utilized to apply for insurance coverage for aboveground storage tanks which are in use:

(A) Any owner or operator who wishes to participate in the fund shall so indicate by applying for coverage on a form specified by the board;

(B) Applications shall include a certification that the petroleum tanks meet or exceed and are in compliance with all technical standards established by the U.S. Environmental Protection Agency, and rules established by the Missouri Department of Natural Resources and the Missouri Department of Agriculture;

(C) An application form shall be submitted for each site for which an owner desires coverage;

(D) Applications shall include information on all tanks known to exist at the site, including underground storage tanks, hazardous substance tanks and aboveground storage tanks which are out of use;

(E) Applications shall include documentation as required by the board to demonstrate that the applicant has a reasonable assurance of the integrity of all aboveground storage tanks on the site which are in use or temporarily out of use. This documentation shall include:

1. A copy of a current Spill Prevention, Control and Countermeasure Plan, as described in 40 CFR Part 112;

2. A demonstration, performed within the previous twelve (12) months, that any pressurized piping which is connected to or part of the aboveground storage tank(s) for which coverage is being sought is liquid tight; and

3. Other documentation as may reasonably be required by the board;

(F) Applications shall also include documentation as required by the board in order to demonstrate that the applicant has the ability to pay the first ten thousand dollars ($10,000) in the event he or she makes a claim for benefits from the fund. Such documentation shall include:

1. A letter of credit for this amount from a federally-insured financial institution in the favor of the Petroleum Storage Tank Insurance Fund;

2. One (1) or more certificates of deposit which total this amount. The applicant shall submit documentation from the custodian of such certificates that assures the fund of their existence and preservation for the purposes described herein;

3. Financial statements indicating that the net worth of the applicant is at least one hundred thousand dollars ($100,000), or that the applicant has at least fifty thousand dollars ($50,000) working capital;

4. A written guarantee from another person or entity demonstrating the ability to pay this amount in a manner outlined in this rule. The provider of the guarantee shall disclose the relationship between that person or entity and the applicant;

5. A letter signed by an officer of a federally-insured financial institution attesting to the ability of the applicant to pay this amount; or

6. Any other method determined by the board to be reasonable and sufficient; and

(G) The board shall review applications within thirty (30) days of receipt, and shall respond to such applications in writing with a notice of acceptance, a request for clarification or information, or a rejection of the application.

1. If the response is a notice of acceptance, it shall include the effective date and period of coverage.

2. If the response is a request for clarification or information, it shall specify a date by which the applicant must respond.

3. If the response is a rejection, it shall identify the additional information needed or list the reason(s) coverage is being denied. If the applicant submitted participation and/or one (1)-time fees with the application, the fees shall be returned or refunded.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 100—Petroleum Storage Tank Insurance Fund Board of Trustees
Chapter 5—Claims

ORDER OF RULEMAKING

By the authority vested in the Missouri Petroleum Storage Tank Insurance Fund Board of Trustees under sections 319.129, 319.131, and 319.132, RSMo Supp. 1998, the board adopts a rule as follows:

10 CSR 100-5.010 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on May 3, 1999 (24 MoReg 1081–1092). The sections with changes are reprinted herein. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: Seven persons made comments on this rule, and a total of 15 comments or changes were suggested. A public hearing on the proposed rule was held on June 16, 1999; at that hearing, Carol R. Eighmey, Executive Director of the Petroleum Storage Tank Insurance Fund, summarized the development of the rule and highlighted how the rule would change current Fund practices. Ric Telthorst, Executive Director of the Missouri Oil Council, made several comments and provided a written copy of his testimony. Brian Treece, Executive Director of the Missouri Coalition of Environmental Contractors, testified on behalf of that organization. Written comments were received from Bruce Wylie, Executive Director of the Consulting Engineers Council of Missouri, Robert L. Johnson, Johnson Consulting, David Shorr, attorney representing BP Amoco, and John Pelzer, Executive Vice President of the Missouri Petroleum Marketers and Convenience Store Association. All comments were reviewed and considered by the Petroleum Storage Tank Insurance Fund Board of Trustees.

COMMENT: Bruce Wylie objected to the provision in 5.010(3) which gives the Board final authority to make decisions regarding eligibility and cost issues, on the grounds that the Department of Natural Resources determines what actions are necessary to clean up a site. Robert Johnson suggested the Board may wish to employ a third-party mediator to make eligibility and cost decisions, due to the possibility that the Board may not be able to make objective decisions.
RESPONSE: The Missouri General Assembly has given the Board of Trustees the authority and responsibility for management of the Petroleum Storage Tank Insurance Fund. While the Board may choose to employ others to assist in its decision-making, the ulti-

mate responsibility for all decisions involving the Fund, including decisions about payments, rests unavoidably with the Board. The proposed rule simply recognizes this fact. The Board disagrees with Mr. Wylie's characterization of the Department of Natural Resources' (DNR's) role. While it is true that DNR has statutory and regulatory authority to oversee cleanups, and to specify the criteria by which a site will be judged to be adequately cleaned up, the specific design and implementation of systems to accomplish those goals are the responsibility of the environmental consultant and/or engineer employed by the landowner or party responsible for the cleanup. DNR reviews proposed corrective action plans to ensure that they address the contamination problem adequately, conform with permitting and other regulatory requirements, and will likely result in reduction of contaminants to the levels specified by DNR. As has been demonstrated in several specific instances, such plans may include extra work beyond the minimum necessary, or unnecessarily expensive activities or technologies; however, DNR makes no decision regarding costs. Rather, the PSTIF as the party shouldering the financial responsibility for the cleanup evaluates the cost, and must make the determination as to whether the proposed expenditures are a cost-efficient method of meeting the environmental goals.

COMMENT: It was noted by Ric Telthorst and David Shorr that Section (4)(B)3 of the rule requires, in certain cases, ongoing and continuous insurance coverage from the Petroleum Storage Tank Insurance Fund as a condition for receiving continued benefits from the Fund to clean up a historic release. Mr. Telthorst suggested that a lapse in coverage caused by an error of the Fund's administrator should not result in lapse of benefits.
RESPONSE: The Board does not believe any change in the rule is needed in order to accommodate this hypothetical situation. In those rare instances where a mistake by Fund staff may have caused a lapse in coverage, the error has been corrected by reinstating coverage with a retroactive date, so no lapse actually occurs. Therefore, no change in the proposed rule is needed to accommodate the situation described.

COMMENT: Mr. Telthorst and Mr. Shorr suggested that Section (5)(B)1 be amended to allow eligibility for a release of petroleum, even though the tank may have stored hazardous substances previously.
RESPONSE AND EXPLANATION OF CHANGE: The Petroleum Storage Tank Insurance Fund Board of Trustees has clarified this provision by adding the phrase, "when the release occurred."

COMMENT: Mr. Telthorst and Mr. Shorr suggested that cleanup costs resulting from a release of petroleum from a regulated UST located on a terminal site should be eligible expenses, and alleged this is required by statute.
RESPONSE: Section (5)(C) of the Board's proposed rule excluded all cleanup costs at a terminal, based on its view that the legislature intended to exclude all cleanup costs at terminal sites. The Board does not agree that the statute includes such USTs, and made no change to the Fund's historical interpretation as presented in the proposed rule.

COMMENT: It was suggested by Bruce Wylie, Ric Telthorst and David Shorr that if the Board believes that proposed costs for a project are too high, the Board's response should specify why it reached this decision, and/or specify which parts of the proposed project are too expensive. It was also suggested that the Board's response should state what is a reasonable range of costs for such service. Changes to Section (8) were recommended.
RESPONSE AND EXPLANATION OF CHANGE: The Board concurs that clarification is needed to reflect its intention to provide as much information as possible to Fund participants and beneficiaries who submit proposed costs in advance of the project. Therefore, the Board of Trustees has added a sentence to the end of subsection (8)(E), as printed below.

COMMENT: Mr. Wylie suggested that (8)(A)1 be amended to require Fund participants and beneficiaries to negotiate fees with their selected environmental consultant.
RESPONSE: The Board recognizes that many times, such negotiations take place and are beneficial, as the Fund participant or beneficiary is preparing his cost estimate or bids for submission to the Fund; however, it does not desire to impose a requirement that negotiation take place in every case, since it may not always be necessary.

COMMENT: Mr. Johnson suggested removing the word "all" from (8)(A)1., stating it is not possible to identify every possible task that may be necessary to complete cleanup.
RESPONSE: The Board believes the rule is sufficiently flexible to accommodate unforeseen circumstances, and notes (A)2.G of the rule provides for contingencies.

COMMENT: Mr. Johnson offered a suggested change to (8)(A)2.A., noting that the Fund may benefit from allowing certain costs to be bid and paid in either tons or truckloads.
RESPONSE: The Board welcomes cost estimates in tons, and the rule allows for this. While the Board believes there may be some instances where a bid in "truckloads" might result in confusion, since trucks come in various sizes, nevertheless the Board also believes the rule is sufficiently flexible to allow the approach recommended by Mr. Johnson, and encourages Mr. Johnson and other consultants to assist the Fund in obtaining the most cost-efficient services possible.

COMMENT: Mr. Johnson suggested 5.010(8) be revised to use the term "bidder" in place of "contractor or consultant," and that the Board require that Fund participants and beneficiaries employ a professional engineer for every project.
RESPONSE: The Board disagrees that "bidder" would be a better term, and believes the terms "contractor or consultant" are broad enough to include the range of professionals that may be involved in the management, design and implementation of projects to characterize and clean up petroleum contamination. Further, it believes that the Department of Natural Resources is the proper entity to determine what professional expertise is needed to design or implement corrective action plans; thus, the Board chooses not to require a professional engineer on every project.

COMMENT: Mr. Johnson suggested that (10)(D) be modified to specify that costs of removal of fill material, concrete and structures which are necessary to access contaminated soil should be eligible, and that costs of "management and handling" of such material should also be eligible expenses. Mr. Wylie similarly suggested that costs of demolition and removal of buildings, canopies and dispensers should be allowed on a case by case basis, rather than excluded in (10)(C).
RESPONSE AND EXPLANATION OF CHANGE: The Board agrees that "overburden" may be too limited in meaning, and intends to pay for removal of fill material, concrete, etc. as needed to clean up contamination. The wording in (10)(D) has been expanded accordingly. In addition, the Board independently noted that paragraphs 1 and 2 were inadvertently printed under subsection (E), rather than under subsection (D) as intended, and has corrected this mistake. The Board is not clear what "management and handling" means, and believes the word "removal" is sufficiently broad. Based on its experience to date, the Board has not seen cases where removal of buildings was necessary to remediate a site, and believes costs for removal of canopies and dispensers

should generally be ineligible; it notes that its Claim Appeal Procedure allows for consideration of unusual circumstances.

COMMENT: It was noted by Mr. Telthorst and Mr. Shorr that Section 319.107, RSMo, requires the Fund to pay certain costs incurred by tank owners whose tanks are not the source of contamination; an amendment to (10)(E) was suggested.
RESPONSE: The Board acknowledges the liability imposed on the Fund by Section 319.107, RSMo. However, this rule does not address situations described in that section of law. Rather, this rule addresses situations governed by other statutory provisions, where a release from a tank has occurred. Therefore, no change to subsection (10)(E) of the proposed rule is required.

COMMENT: Regarding Section (10)(K), Ric Telthorst and David Shorr suggested the Board should pay the administrative costs of filing a claim, noting some Fund participants and beneficiaries employ an outside party to do this.
RESPONSE: Most tank owners submit claims without incurring costs for outside assistance. Furthermore, the Board has streamlined the claims process so that, unlike other states where separate forms and substantial extra documentation are required, Fund participants and beneficiaries in Missouri can file a claim by simply mailing existing reports and invoices to the Fund. The Board sees no reason to increase its costs by inviting charges for claim preparation and/or submittal, and has made no change to subsection (10)(K) of the proposed rule.

COMMENT: Testimony given at the public hearing regarding Sections (10)(F), (10)(G), and (10)(H), suggested that environmental consultants sometimes "mark up" certain costs—such as landfill fees, laboratory analytical expenses, and drilling costs—and that the Fund should pay this "markup." This comment was also contained in written comments from Mr. Wylie and Mr. Johnson. Written comments from Mr. Pelzer supported the Board's proposed rule, which disallows these costs.
RESPONSE: Prior to April 1997, the historical practice of the Fund had been to pay no markup of any subcontracted cost. During development of a Claim Kit, the Board of Trustees and its Advisory Committee discussed this practice in detail with numerous Fund participants and beneficiaries, and with contractors and consultants. It was recognized that the "no markup" policy did not always work well, so a change was instituted. Effective with the publication of the Claim Kit in April 1997, the Board began recognizing and paying "markup" on any and all tasks and services, except three: fees charged by a facility that treats or disposes of contaminated soil (typically a landfill), fees charged by laboratories for analysis of soil and water samples, and fees charged by drillers.

This policy has been in place for fourteen months, and has expedited claims processing and reduced claim disputes. The Board of Trustees has considered the comments received on this subject, and concluded that there is a sound basis for continuing the existing policy.

COMMENT: John Pelzer supported the provision in subsection (10)(L), which would change current practices and allow the Board to pay for resurfacing a site when existing pavement is destroyed by the cleanup activities. During its review of the proposed rule, the Board noted that the language in subsection (10)(L) was not sufficiently precise to accurately communicate the intent of the Board and its Advisory Committee.
RESPONSE AND EXPLANATION OF CHANGE: Clarifying language has been added to reflect the Board's intention to pay for resurfacing only for recent claims.

COMMENT: Mr. Johnson recommended section (12) be amended to require an engineering survey, copies of certain contracts, and/or a certification by a professional engineer of quantities of soil, water, etc. as part of the claim submittal to the Fund.
RESPONSE: While the Board recognizes and appreciates the value of such information, and may request such information in some circumstances as part of the process of verifying claims, it believes that imposing this as a standard requirement applicable to all claims would be overly burdensome and costly. The statute and rules give the Board's claims adjusters sufficient flexibility and authority to obtain such information as needed.

10 CSR 100-5.010 Claims for Cleanup Costs

(5) Fund participants or beneficiaries may not receive monies from the fund for the following sites:

(B) Sites contaminated by a release from a tank that—

1. Is or was used to store hazardous substances when the release occurred;

2. Is a farm or residential tank of one thousand one hundred (1,100) gallons or less, which is used for storing motor fuel for noncommercial purposes;

3. Is or was used, at the time of the release, for storing heating oil for consumptive use on the premises;

4. Is a septic tank or part of a storm water or waste water collection system;

5. Is a flow-through process tank;

6. Is situated in an underground area, such as a basement, the tank is on or above the floor; or

7. Is part of a transformer, circuit breaker, or similar electrical equipment; and

(8) Fund participants and beneficiaries are required to seek preapproval of cleanup costs by following the procedures outlined below:

(E) The board will respond in writing to bid(s) or cost estimate(s) submitted by fund participants or beneficiaries, and will state whether the bid(s) or cost estimate(s) are eligible, reasonable, and necessary. This response will be based on information submitted for each project, as well as information available to the board from its review of other cost estimates and its processing of similar claims. To the extent possible, the board's response will note which specific tasks, rates or items are deemed to be ineligible, unreasonable or unnecessary, and will explain the reason for its decision;

(10) Costs not associated with cleanup of a release from a petroleum storage tank are not eligible. Such costs include, but are not limited to:

(D) Costs of excavation, transport, treatment or disposal of soil which is not contaminated with petroleum at levels such that the Department of Natural Resources requires corrective action, except that—

1. The cost of removal of concrete or similar surface material, overburden, or fill material which is necessary to access contaminated soil for removal is eligible; and

2. Costs for removal, transport, and treatment or disposal of backfill which surrounds underground tanks or piping, which is removed during tank closure activities, and which is contaminated at a level such that the Department of Natural Resources prohibits placement of the material back into the excavated area, are eligible;

(E) Costs for environmental site assessments, or similar work, the purpose of which is to determine whether or not a release has occurred;

(L) Paving or resurfacing, except as required as a result of necessary cleanup activities. Claims for resurfacing shall be paid on a depreciated basis, or on the basis of the actual cash value of the surface which existed immediately prior to the cleanup; in no case

shall costs for resurfacing be recognized as eligible expenses unless the costs of cleanup were incurred after May 3, 1999;

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 100—Petroleum Storage Tank Insurance Fund Board of Trustees
Chapter 5—Claims

ORDER OF RULEMAKING

By the authority vested in the Missouri Petroleum Storage Tank Insurance Fund Board of Trustees under section 319.129, RSMo Supp. 1998, the board adopts a rule as follows:

10 CSR 100-5.020 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on May 3, 1999 (24 MoReg 1093–1095). Changes have been made in the text of the proposed rule, so they are are reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on the proposed rule was held on June 16, 1999; at that hearing, Carol R. Eighmey, Executive Director of the Petroleum Storage Tank Insurance Fund, summarized the process by which the rule had been developed. Testimony was received from Ric Telthorst at the hearing, and the same comment was submitted in writing by David Shorr. Robert Johnson also submitted two written comments on this rule.

COMMENT: Mr. Telthorst and Mr. Shorr suggested that the rule provides no incentive for the third-party administrator to act on appeals in a timely fashion, and recommended a change to section (2) which would state the appellant "wins" the appeal if no response is received within thirty (30) days. Similar changes were recommended to sections (4) and (5).
RESPONSE: While the Board is committed to providing timely service in all aspects of the Fund's operation, it nevertheless believes it would be imprudent to commit funds in payment of a disputed claim without substantive review of the issues. Therefore, the suggested changes have not been made.

COMMENT: Robert Johnson suggested that section (4) of the rule be amended to allow the Executive Director to disburse funds, if she/he finds in favor of the appellant, in order to efficiently end the appeals process without the need to obtain action by the Board of Trustees. He also suggested the Board and/or the Executive Director be authorized to obtain the services of a professional mediator to assist in resolving claim appeals.
RESPONSE: The Board considered this option when it initially established its Claim Appeal Procedure, and chose to retain authority for supplemental disbursement of funds itself. The current procedure has not proved unworkable, and therefore, the Board has made no change to this aspect of the rule.

Regarding use of a mediator, the Board believes it has the authority to employ services as needed, without any change to the proposed rule.

COMMENT: Mr. Johnson also suggested that section (6) be amended to require the services of a mediator, in lieu of making its decision in closed session.
RESPONSE: The Board of Trustees has the authority and responsibility for managing the Petroleum Storage Tank Insurance Fund, including decisions regarding all payments from the Fund. The Attorney General's Office has advised the Board that it may deliberate and decide claim appeals in closed session, if it chooses. The Board prefers to retain this flexibility.

COMMENT: Mr. Johnson suggested the cost of appealing a claim should be recognized as an eligible expense and paid by the Board.
RESPONSE: The Board prefers not to encourage claim appeals by automatically paying the appellant's cost to appeal. It recognizes that some claim appeals may be litigated in a court of law, and prefers to allow the judicial system to make determinations on a case-by-case basis regarding whether the appellant's cost of appeal is to be paid by the Fund.

COMMENT: During its review of the proposed regulation, the Board of Trustees noted that clarification was needed in order to specify whether the various deadlines are to be calculated from the date a communication is "sent", or the date it is "received".
RESPONSE AND EXPLANATION OF CHANGE: To clarify the method of calculating the deadlines, the word "present" in section (1) has been changed to "send or deliver." In section (3), the phrase "of receipt of the administrator's decision" has been added. In section (5), the phrase "of receipt of the executive director's decision" has been added.

COMMENT: During its review of the proposed regulation, the Board of Trustees noted that the rule did not specify what its intentions were in the circumstance where a Fund participant or beneficiary fails to file his appeal in a timely manner.
RESPONSE AND EXPLANATION OF CHANGE: The Board has rectified this oversight by adding a section (7), which clarifies that failure to file an appeal in a timely fashion nullifies the participant's or beneficiary's rights under the procedure, and relieves the Board and its staff and/or agents of the obligation to act.

10 CSR 100-5.020 Claims Appeal Procedure

(1) If a fund participant or beneficiary disagrees with a payment decision, he or she must send or deliver the objection(s) or reason(s) for the disagreement in writing to the party designated by the board to process claims within one hundred eighty (180) days of the date the check or the claim denial is issued.

(3) If the fund participant or beneficiary still disagrees with the administrator's decision, he or she may request further review by sending a written request within sixty (60) days of receipt of the administrator's decision to the board's executive director.

(5) If the executive director affirms the previous decision, and the fund participant or beneficiary is still dissatisfied, he or she may request review by the board by sending a written request within sixty (60) days of receipt of the executive director's decision to the board's mailing address.

(7) While the board may, at its sole discretion, choose to consider an appeal which is not submitted according to the deadlines imposed by sections (1), (3) or (5) of this rule, it is under no obligation to consider or take action on such requests, and may deny a claim based upon the failure to timely comply with the deadlines stated in this section.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 100—Petroleum Storage Tank Insurance Fund Board of Trustees
Chapter 5—Claims

ORDER OF RULEMAKING

By the authority vested in the Missouri Petroleum Storage Tank Insurance Fund Board of Trustees under sections 319.129 and 319.131, RSMo Supp. 1998, the board adopts a rule as follows:

10 CSR 100-5.030 Third-Party Claims **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on May 3, 1999 (24 MoReg 1096–1097). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on the proposed rule was held on June 16, 1999; at that hearing, Carol R. Eighmey, Executive Director of the Petroleum Storage Tank Insurance Fund, summarized the process by which the rule had been developed. The Board also received testimony from Mr. Ric Telthorst, and the same comment was submitted in writing by David Shorr.

COMMENT: Mr. Telthorst and Mr. Shorr suggested that the rule contradicts statutory provisions, and asked the Board to amend its rule to allow payment of third-party damages for certain kinds of claims involving historic releases.

RESPONSE: The Board does not agree that there is a conflict between the rule and the statute. Further, subjecting the Fund to liability for third-party damages in situations where the release may have occurred years ago, and occurred at a time when the Fund was not insuring the tank owner or operator, could potentially have a substantial negative impact on the solvency of the Fund and the Board's ability to meet its present and future obligations. After consideration of this comment and review of the proposed rule, the Petroleum Storage Tank Insurance Fund Board of Trustees voted to make no change to the proposed rule.

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 17—Voluntary Exclusions

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under section(s) 313.041, RSMo 1994, the Commission amends a rule as follows:

11 CSR 45-17.020 Procedure for Applying for Placement on List of Disassociated Persons **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 3, 1999 (24 MoReg 1098–1099). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 17—Voluntary Exclusions

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under section 313.041, RSMo 1994, the commission amends a rule as follows:

11 CSR 45-17.040 Confidentiality of List of Disassociated Persons **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 3, 1999 (24 MoReg 1100). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership

ORDER OF RULEMAKING

By the authority vested in the board of directors under section 50.1032, RSMo Supp. 1998, the board amends a rule as follows:

16 CSR 50-2.020 Payroll Contributions **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 1, 1999 (24 MoReg 1675). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 19—DEPARTMENT OF HEALTH
Division 20—Division of Environmental Health and Communicable Disease Prevention
Chapter 28—Immunization

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Health under section 376.1215, RSMo Supp. 1998, the director amends a rule as follows:

19 CSR 20-28.060 Minimum Immunization Coverage to Be Provided by Individual and Group Health Insurance Policies **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 1999 (24 MoReg 1543–1544). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE
Division 10—General Administration
Chapter 1—Organization

ORDER OR RULEMAKING

By the authority vested in the director of the Department of Insurance under section 374.045, RSMo Supp. 1998, the director amends a rule as follows:

20 CSR 10-1.020 Interpretation of Referenced or Adopted Material **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 1999 (24 MoReg 1545–1549). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received concerning this proposed amendment.

Title 20—DEPARTMENT OF INSURANCE
Division 200—Financial Examination
Chapter 5—Articles and Bylaws of Domestic Insurers

ORDER OR RULEMAKING

By the authority vested in the director of the Department of Insurance under section 374.045.1(2), RSMo Supp. 1998, the director amends a rule as follows:

20 CSR 200-5.010 Amendment and Restatement of Articles **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 1999 (24 MoReg 1550–1552). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received concerning this proposed amendment.

Title 20—DEPARTMENT OF INSURANCE
Division 200—Financial Examination
Chapter 6—Surplus Lines

ORDER OR RULEMAKING

By the authority vested in the director of the Department of Insurance under sections 374.045, RSMo 1998, and 384.017, 384.031 and 384.057, RSMo 1994, the director amends a rule as follows:

20 CSR 200-6.100 Surplus Lines Insurance Forms **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 1999 (24 MoReg 1553–1554). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received concerning this proposed amendment.

Title 20—DEPARTMENT OF INSURANCE
Division 200—Financial Examination
Chapter 7—Security Deposits

ORDER OR RULEMAKING

By the authority vested in the director of the Department of Insurance under sections 374.045 and 400.8-108.3, RSMo 1998, and 375.460, RSMo 1994, the director amends a rule as follows:

20 CSR 200-7.200 Deposit of Securities Under a Book-Entry System **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 1999 (24 MoReg 1555–1558). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received concerning this proposed amendment.

Title 20—DEPARTMENT OF INSURANCE
Division 200—Financial Examination
Chapter 8—Risk Retention

ORDER OR RULEMAKING

By the authority vested in the director of the Department of Insurance under section 374.045.1(3), RSMo Supp. 1998, the director amends a rule as follows:

20 CSR 200-8.100 Federal Liability Risk Retention Act **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 1999 (24 MoReg 1559–1561). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received concerning this proposed amendment.

Title 20—DEPARTMENT OF INSURANCE
Division 200—Financial Examination
Chapter 9—Third-Party Administrators (TPA)

ORDER OR RULEMAKING

By the authority vested in the director of the Department of Insurance under sections 374.045 and 376.1095, RSMo Supp. 1998, the director amends a rule as follows:

20 CSR 200-9.600 Application for Certificate of Authority **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 1999 (24 MoReg 1562–1569). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received concerning this proposed amendment.

Title 20—DEPARTMENT OF INSURANCE
Division 200—Financial Examination
Chapter 10—Managing General Agent (MGA)

ORDER OR RULEMAKING

By the authority vested in the director of the Department of Insurance under sections 374.045, RSMo Supp. 1998, and 375.153, RSMo 1994, the director amends a rule as follows:

20 CSR 200-10.500 Forms and Fees **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 1999 (24 MoReg 1570–1571). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received concerning this proposed amendment.

Title 20—DEPARTMENT OF INSURANCE
Division 200—Financial Examination
Chapter 14—Multiple Employer Self-Insured Health Plans

ORDER OR RULEMAKING

By the authority vested in the director of the Department of Insurance under sections 374.045, 375.786 and 376.1025, RSMo Supp. 1998, and 376.1022, RSMo 1994, the director amends a rule as follows:

20 CSR 200-14.400 Dissolution of Plan **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 1999 (24 MoReg 1572–1573). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received concerning this proposed amendment.

Title 20—DEPARTMENT OF INSURANCE
Division 400—Life, Annuities and Health
Chapter 1—Life Insurance and Annuity Standards

ORDER OR RULEMAKING

By the authority vested in the director of the Department of Insurance under sections 374.045, RSMo Supp. 1998 and 376.309 and 376.671, RSMo 1994, the director amends a rule as follows:

20 CSR 400-1.150 Modified Guaranty Annuity **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 1999 (24 MoReg 1574–1575). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received concerning this proposed amendment.

Title 20—DEPARTMENT OF INSURANCE
Division 400—Life, Annuities and Health
Chapter 2—Accident and Health Insurance in General

ORDER OR RULEMAKING

By the authority vested in the director of the Department of Insurance under section 374.045, RSMo Supp. 1998, the director amends a rule as follows:

20 CSR 400-2.130 Group Health Filings **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 1999 (24 MoReg 1576–1584). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received concerning this proposed amendment.

Title 20—DEPARTMENT OF INSURANCE
Division 500—Property and Casualty
Chapter 1—Property and Casualty Insurance in General

ORDER OR RULEMAKING

By the authority vested in the director of the Department of Insurance under sections 374.045, RSMo Supp. 1998, and 379.150, 379.160 and 379.840, RSMo 1994, the director amends a rule as follows:

20 CSR 500-1.100 Standard Fire Policies **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 1999 (24 MoReg 1585). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received concerning this proposed amendment.

Title 20—DEPARTMENT OF INSURANCE
Division 500—Property and Casualty
Chapter 4—Rating Laws

ORDER OR RULEMAKING

By the authority vested in the director of the Department of Insurance under sections 374.045, RSMo Supp. 1998, and 375.031, 375.136, 379.318(2), 379.321(3) and 379.470(6), RSMo 1994, the director amends a rule as follows:

20 CSR 500-4.300 Rate Variations (Consent Rate) Prerequisites **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 1999 (24 MoReg 1585–1586). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received concerning this proposed amendment.

Title 20—DEPARTMENT OF INSURANCE
Division 500—Property and Casualty
Chapter 7—Title

ORDER OR RULEMAKING

By the authority vested in the director of the Department of Insurance under sections 374.045, 381.031(22) and 381.231, RSMo 1998, and 381.071, RSMo 1994, the director amends a rule as follows:

20 CSR 500-7.200 Standards for Policy Issuance **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 1999 (24 MoReg 1587–1588). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received concerning this proposed amendment.

Title 20—DEPARTMENT OF INSURANCE
Division 700—Licensing
Chapter 1—Agents, Brokers and Agencies

ORDER OR RULEMAKING

By the authority vested in the director of the Department of Insurance under sections 374.045, 375.012, 375.013 and 375.022, RSMo Supp. 1998, and 375.014, 375.016, 375.017, 375.018, 375.019, 375.020, 375.021, 375.025, 375.027, 375.031, 375.033, 375.035, 375.037, 375.039, 375.041, 375.046, 375.051 and 375.061, RSMo 1994, the director amends a rule as follows:

20 CSR 700-1.110 Licensing of Agencies **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 1999 (24 MoReg 1589–1591). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received concerning this proposed amendment.

Title 20—DEPARTMENT OF INSURANCE
Division 700—Licensing
Chapter 3—Education Requirements

ORDER OR RULEMAKING

By the authority vested in the director of the Department of Insurance under sections 374.045, RSMo Supp. 1998 and 375.018, RSMo 1994, the director amends a rule as follows:

20 CSR 700-3.100 Prelicensing Education **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 1999 (24 MoReg 1592–1594). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received concerning this proposed amendment

Title 20—DEPARTMENT OF INSURANCE
Division 700—Licensing
Chapter 4—Utilization Review

ORDER OR RULEMAKING

By the authority vested in the director of the Department of Insurance under sections 374.045 and 376.1399, RSMo Supp. 1998 and 374.515, RSMo 1994, the director amends a rule as follows:

20 CSR 700-4.100 Utilization Review **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 1999 (24 MoReg 1595–1597). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received concerning this proposed amendment.

Title 20—DEPARTMENT OF INSURANCE
Division 700—Licensing
Chapter 6—Bail Bond Agents

ORDER OR RULEMAKING

By the authority vested in the director of the Department of Insurance under sections 374.045, 374.700-374.775, RSMo 1994 and Supp. 1998, the director amends a rule as follows:

20 CSR 700-6.300 Affidavits **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 1999 (24 MoReg 1598–1599). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received concerning this proposed rule.

Title 20—DEPARTMENT OF INSURANCE
Division 700—Licensing
Chapter 7—Reinsurance Intermediary

ORDER OR RULEMAKING

By the authority vested in the director of the Department of Insurance under section 374.045.1(2) and (3), RSMo 1998, the director amends a rule as follows:

20 CSR 700-7.100 Reinsurance Intermediary License **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 1999 (24 MoReg 1600–1605). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received concerning this proposed amendment.

Title 20—DEPARTMENT OF INSURANCE
Division 800—General Counsel
Chapter 2—Miscellaneous

ORDER OR RULEMAKING

By the authority vested in the director of the Department of Insurance under sections 374.045, RSMo Supp. 1998, and 375.256, 375.261, 375.281, 375.906 and 379.680, RSMo 1994, the director amends a rule as follows:

20 CSR 800-2.010 Service of Process **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 1999 (24 MoReg 1606). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received concerning this proposed amendment.

This section may contain notice of hearings, correction notices, public information notices, rule action notices, statements of actual costs and other items required to be published in the *Missouri Register* by law.

Schedule of Compensation as Required by Section 105.005 RSMo

Office	RSMo Citation	Highest Statutory Salary FY 1999	Highest Statutory Salary FY 2000	Citizens' Comm. Recommended Salary FY 2000
Elected Officials				
Governor	26.010	$112,755	$112,755 *	$113,883 **
Lt. Governor	26.010	68,188	68,188 *	73,023 **
Attorney General	27.010	97,899	97,899 *	98,878 **
Secretary of State	28.010	90,471	90,471 *	91,376 **
State Treasurer	30.010	90,471	90,471 *	91,376 **
State Auditor	29.010	90,471	90,471 *	91,376 **
General Assembly				
Senator	21.140	29,082	29,082 *	29,373 **
Representative	21.140	29,082	29,082 *	29,373 **
Speaker of House	21.140	31,582	31,582 *	31,873 **
President Pro Tem of Senate	21.140	31,582	31,582 *	31,873 **
Speaker Pro Tem of the House	21.140	30,582	30,582 *	30,873 **
Majority Floor Leader of House	21.140	30,582	30,582 *	30,873 **
Majority Floor Leader of Senate	21.140	30,582	30,582 *	30,873 **
Minority Floor Leader of House	21.140	30,582	30,582 *	30,873 **
Minority Floor Leader of Senate	21.140	30,582	30,582 *	30,873 **
Appointed Officials				
Commissioner of Administration	105.950	96,129	99,013	
Director, Department of Revenue	105.950	95,633	99,013	
Director, Department of Social Services	105.950	92,317	95,086	
Director, Department of Agriculture; Corrections; Economic Development; Labor and Industrial Relations; Natural Resources; and Public Safety	105.950	88,526	92,952	
State Tax Commissioners	138.236	86,843	91,185	
Administrative Hearing Commissioners	621.015	84,610	88,840	
Probation and Parole				
1. Chairman	217.665	73,451	75,539	
2. Board Members	217.665	69,576	71,664	
Labor and Industrial Relations Commissioners	286.005	86,843	91,185	
Division of Workers' Compensation				
1. Legal Advisor	287.615	69,788	69,788 ***	75,144 ***
2. Chief Counsel	287.615	71,788	71,788 ***	77,144 ***
3. Administrative Law Judge	287.615	78,512	78,512 ***	84,537 ***
4. Administrative Law Judge in Charge	287.615	83,512	83,512 ***	89,537 ***
5. Director, Division of Workers' Compensation	287.615	85,512	85,512 ***	91,537 ***
Public Service Commissioners	386.150	86,843	91,185	

*Actual statutory salary as appropriated in the Fiscal Year 2000 appropriation bills.
**Highest statutory salary as recommended by the Citizens' Commission on Total Compensation (includes Citizens' Commission base salary and a one percent cost of living adjustment.)
***Division of Workers' Compensation salaries are tied to those of Associate Circuit Judges.

The salary adjustment contained in the pay plan applicable to other state employees generally for the fiscal year ending June 30, 2000 was one percent for cost of living increases and an average of four percent within grade increases for eligible employees.

The percentage increase in personal income in Missouri in calendar year 1998 was 4.0 percent.

Schedule of Compensation as Required by Section 476.405 RSMo

	RSMo Citation	Highest Salary FY 1999	Highest Salary FY 2000	Citizens' Comm. Recommended Salary FY 2000
Supreme Court				
Chief Justice	477.130	$116,848	$116,848 *	$123,700 **
Judges	477.130	114,348	114,348 *	121,200 **
Court of Appeals				
Judges	477.130	106,797	106,797 *	113,120 **
Circuit Court				
Circuit Court Judges	478.013	98,947	98,947 *	106,050 **
Associate Circuit Judges	478.018	87,235	87,235 *	93,930 **
Juvenile Officers	211.381			
Juvenile Officer		37,027	38,878	
Chief Deputy Juvenile Officer		31,356	32,924	
Deputy Juvenile Officer Class I		27,651	29,034	
Deputy Juvenile Officer Class 2		24,942	26,189	
Deputy Juvenile Officer Class 3		22,513	23,639	
Court Reporters	485.060	44,482	46,706	
Probate Commissioner	478.266 & 478.267	98,947	98,947 ***	106,050 ***
Deputy Probate Commissioner	478.266	87,235	87,235 ***	93,930 ***
Family Court Commissioner	211.023 & 487.020	87,235	87,235 ***	93,930 ***
Circuit Clerk				
1st Class Counties	483.083	55,378	58,147	
St. Louis City	483.083	92,668	97,301	
Jackson, Jasper & Cape Girardeau	483.083	60,053	63,056	
2nd & 4th Class Counties	483.083	49,700	52,185	
3rd Class Counties	483.083	43,212	45,373	
Marion-Hannibal & Palmyra	483.083	48,887	51,331	
Randolph & Lewis	483.083	47,424	49,795	

*Actual statutory salary as appropriated in the Fiscal Year 2000 appropriation bills.

**Highest statutory salary as recommended by the Citizens' Commission on Total Compensation (includes Citizens' Commission base salary and a one percent cost of living adjustment.)

***Salaries are tied to those of Circuit and Associate Circuit Judges.

The salary adjustment contained in the pay plan applicable to other state employees generally for the fiscal year ending June 30, 2000 was one percent for cost of living increases and an average of four percent within grade increases for eligible employees.

OFFICE OF ADMINISTRATION
Division of Purchasing

BID OPENINGS

Sealed Bids in one (1) copy will be received by the Division of Purchasing, Room 580, Truman Building, P.O. Box 809, Jefferson City, MO 65102, telephone (573) 751-2387 at 2:00 p.m. on dates specified below for various agencies throughout Missouri. Bids are available to download via our homepage: http://www.state.mo.us/oa/purch/purch.htm. Prospective bidders may receive specifications upon request.

B001027 Security System 10/4/99;
B001029 Equipment: Car Wash 10/4/99;
B001052 Meats–November 10/4/99;
B003021 Temporary Nursing Services 10/4/99;
B003031 Print: Carbonless Forms 10/4/99
B001055 Dairy Products: Cheese 10/5/99;
B002019 Fiber Optic Cable Installation-Buried 10/5/99;
B003005 Drug Testing Using Sweat Patch 10/5/99;
B003039 Investigation/Inspection-Amusement Ride 10/5/99;
B001049 Pharmaceuticals 10/6/99;
B003011 Print: 3-Part Carbonless Form 10/6/99;
B003025 Insurance Examination Administration 10/11/99;
B001045 Law Enforcement Equipment 10/12/99;
B001056 Envelopes: Unprinted 10/12/99;
B001057 Soap,Lotion 10/12/99;
B003015 Print: Missouri Conservationist 10/14/99;
B003030 Environmental Inspection/Design Services 10/18/99;
B002022 Evaluation-Medicaid Section 1115 Waiver 10/19/99;
B003012 Banking Services for WIC Program 10/19/99;
B003037 Janitorial Services-St. Louis 10/19/99;

It is the intent of the State of Missouri, Division of Purchasing to purchase the following as a single feasible source without competitive bids. If suppliers exist other than the one identified, contact (573) 751-2387 immediately.

1.) Enhanced Inactivated Polio-Virus (E-IPV) Vaccine in 10 dose vials, supplied by Pasteur Merieux Connaught. 2.) Measles, Mumps, Rubella (MMR) Vaccine NDC#0006-4681-00, supplied by Merck Vaccine Division.
1.) Child Care Resource and Referral Services, supplied by Missouri Child Care Resource and Referral Network. 2.) Copyrighted Publications, supplied by Nawd Publications.

Joyce Murphy, CPPO,
Director of Purchasing

This cumulative table gives you the latest status of rules. It contains citations of rulemakings adopted or proposed after deadline for the monthly Update Service to the *Code of State Regulations*, citations are to volume and page number in the *Missouri Register*, except for material in this issue. The first number in the table cite refers to the volume number or the publication year—21 (1996), 22 (1997), 23 (1998) and 24 (1999). MoReg refers to *Missouri Register* and the numbers refer to a specific *Register* page, R indicates a rescission, W indicates a withdrawal, S indicates a statement of actual cost, T indicates an order terminating a rule and N.A. indicates not applicable.

Rule Number	Agency	Emergency	Proposed	Order	In Addition
	OFFICE OF ADMINISTRATION				
1 CSR 10	State Officials' Salary Compensation Schedule				23 MoReg 2473
					This Issue
1 CSR 20-1.020	Personnel Advisory Board		24 MoReg 945	24 MoReg 2056	
1 CSR 20-2.015	Personnel Advisory Board		24 MoReg 946	24 MoReg 2058	
1 CSR 20-3.020	Personnel Advisory Board		24 MoReg 949	24 MoReg 2058	
1 CSR 20-3.040	Personnel Advisory Board		24 MoReg 949	24 MoReg 2058	
	DEPARTMENT OF AGRICULTURE				
2 CSR 10-5.005	Market Development	This Issue			
2 CSR 30-2.015	Animal Health	23 MoReg 1427			
2 CSR 70-13.010	Plant Industries		24 MoReg 1821		
2 CSR 70-13.015	Plant Industries		24 MoReg 1821		
2 CSR 70-13.020	Plant Industries		24 MoReg 1822		
2 CSR 70-13.025	Plant Industries		24 MoReg 1822		
2 CSR 70-13.030	Plant Industries		24 MoReg 1823		
2 CSR 70-13.035	Plant Industries		24 MoReg 1825		
2 CSR 70-13.040	Plant Industries		24 MoReg 1827		
2 CSR 80-5.010	State Milk Board		24 MoReg 875	24 MoReg 1952	
2 CSR 90-30.050	Weights and Measures		24 MoReg 1195	This Issue	
2 CSR 90-30.060	Weights and Measures		24 MoReg 1200R	This IssueR	
2 CSR 90-30.070	Weights and Measures		24 MoReg 1200	This Issue	
2 CSR 90-30.080	Weights and Measures		24 MoReg 1203	This Issue	
2 CSR 90-30.090	Weights and Measures		24 MoReg 1203	This Issue	
2 CSR 90-30.100	Weights and Measures		24 MoReg 1207	This Issue	
2 CSR 100-8.010	Agricultural and Small Business Authority	24 MoReg 1787R	24 MoReg 1829R		
	DEPARTMENT OF CONSERVATION				
3 CSR 10-4.111	Conservation Commission		24 MoReg 1475	24 MoReg 2156	
3 CSR 10-4.113	Conservation Commission		24 MoReg 1475	24 MoReg 2156	
3 CSR 10-4.115	Conservation Commission		24 MoReg 1479	24 MoReg 2156	
			N.A.	24 MoReg 2059	
3 CSR 10-4.116	Conservation Commission		24 MoReg 1484	24 MoReg 2156	
3 CSR 10-4.130	Conservation Commission		24 MoReg 1485	24 MoReg 2157	
3 CSR 10-4.136	Conservation Commission		24 MoReg 1485	24 MoReg 2157	
3 CSR 10-4.140	Conservation Commission		24 MoReg 1485	24 MoReg 2157	
3 CSR 10-4.145	Conservation Commission		24 MoReg 1486	24 MoReg 2157	
3 CSR 10-5.205	Conservation Commission		24 MoReg 1486	24 MoReg 2157	
3 CSR 10-5.215	Conservation Commission		24 MoReg 1486	24 MoReg 2157	
3 CSR 10-5.220	Conservation Commission		24 MoReg 1487	24 MoReg 2158	
3 CSR 10-5.420	Conservation Commission		24 MoReg 1487	24 MoReg 2158	
3 CSR 10-6.405	Conservation Commission		24 MoReg 1487	24 MoReg 2158	
3 CSR 10-6.415	Conservation Commission		24 MoReg 1488	24 MoReg 2158	
3 CSR 10-6.505	Conservation Commission		24 MoReg 1488	24 MoReg 2158	
3 CSR 10-6.510	Conservation Commission		24 MoReg 1488	24 MoReg 2158	
3 CSR 10-6.525	Conservation Commission		24 MoReg 1489	24 MoReg 2159	
3 CSR 10-6.540	Conservation Commission		24 MoReg 1489	24 MoReg 2159	
3 CSR 10-6.550	Conservation Commission		24 MoReg 1490	24 MoReg 2159	
3 CSR 10-7.440	Conservation Commission		N.A.	This Issue	
3 CSR 10-7.450	Conservation Commission		24 MoReg 1490	24 MoReg 2159	
3 CSR 10-8.515	Conservation Commission		24 MoReg 1490	24 MoReg 2159	
3 CSR 10-9.110	Conservation Commission		24 MoReg 1491	24 MoReg 2160	
3 CSR 10-9.230	Conservation Commission		24 MoReg 1494	24 MoReg 2160	
3 CSR 10-9.442	Conservation Commission		N.A.	This Issue	
3 CSR 10-10.725	Conservation Commission		24 MoReg 1494	24 MoReg 2160	
3 CSR 10-10.768	Conservation Commission		24 MoReg 1495	24 MoReg 2160	
3 CSR 10-11.805	Conservation Commission		24 MoReg 1495	24 MoReg 2160	
	DEPARTMENT OF ECONOMIC DEVELOPMENT				
4 CSR 30-4.070	Architects, Professional Engineers and Land Surveyors		24 MoReg 1207	24 MoReg 2160	
4 CSR 30-14.010	Architects, Professional Engineers and Land Surveyors		24 MoReg 950	24 MoReg 1952	
4 CSR 30-14.060	Architects, Professional Engineers and Land Surveyors		24 MoReg 950	24 MoReg 1952	
4 CSR 40-1.021	Office of Athletics	21 MoReg 2680			
4 CSR 40-5.070	Office of Athletics	21 MoReg 1963			
4 CSR 70-2.040	State Board of Chiropractic Examiners		24 MoReg 2201		
4 CSR 70-2.050	State Board of Chiropractic Examiners		24 MoReg 2201		
4 CSR 70-2.070	State Board of Chiropractic Examiners		24 MoReg 2202		
4 CSR 70-2.090	State Board of Chiropractic Examiners		24 MoReg 1722		

Rule Number	Agency	Emergency	Proposed	Order	In Addition
4 CSR 90-13.020	State Board of Cosmetology		23 MoReg 1952		
4 CSR 90-13.040	State Board of Cosmetology		24 MoReg 1724		
4 CSR 90-13.060	State Board of Cosmetology		24 MoReg 1724		
4 CSR 105-1.010	Credit Union Commission		24 MoReg 1829		
4 CSR 105-2.010	Credit Union Commission	24 MoReg 1787	24 MoReg 1833		
4 CSR 105-3.010	Credit Union Commission	24 MoReg 1788	24 MoReg 1839		
4 CSR 105-3.020	Credit Union Commission	24 MoReg 1789	24 MoReg 1839		
4 CSR 105-3.030	Credit Union Commission	24 MoReg 1790	24 MoReg 1839		
4 CSR 120-2.010	Board of Embalmers and Funeral Directors		24 MoReg 1028	24 MoReg 2161	
4 CSR 120-2.020	Board of Embalmers and Funeral Directors		24 MoReg 1029	24 MoReg 2161	
4 CSR 120-2.060	Board of Embalmers and Funeral Directors		24 MoReg 2128		
4 CSR 120-2.100	Board of Embalmers and Funeral Directors		24 MoReg 1030 24 MoReg 2129	24 MoReg 2161	
4 CSR 150-2.001	State Board of Registration for the Healing Arts		23 MoReg 2565		
4 CSR 150-2.065	State Board of Registration for the Healing Arts		23 MoReg 2566		
4 CSR 150-3.080	State Board of Registration for the Healing Arts		24 MoReg 1497		
4 CSR 150-3.200	State Board of Registration for the Healing Arts		24 MoReg 1497		
4 CSR 150-3.201	State Board of Registration for the Healing Arts		24 MoReg 1498		
4 CSR 150-3.202	State Board of Registration for the Healing Arts		24 MoReg 1502		
4 CSR 150-3.203	State Board of Registration for the Healing Arts		24 MoReg 1506		
4 CSR 150-4.100	State Board of Registration for the Healing Arts		24 MoReg 714		
4 CSR 150-4.105	State Board of Registration for the Healing Arts		24 MoReg 714		
4 CSR 150-4.110	State Board of Registration for the Healing Arts		24 MoReg 715		
4 CSR 150-4.115	State Board of Registration for the Healing Arts		24 MoReg 716		
4 CSR 150-4.120	State Board of Registration for the Healing Arts		24 MoReg 717		
4 CSR 150-4.125	State Board of Registration for the Healing Arts		24 MoReg 718		
4 CSR 150-4.130	State Board of Registration for the Healing Arts		24 MoReg 718		
4 CSR 150-7.135	State Board of Registration for the Healing Arts		23 MoReg 489 24 MoReg 2131		24 MoReg 2087
4 CSR 150-7.300	State Board of Registration for the Healing Arts		23 MoReg 2703		
4 CSR 150-7.310	State Board of Registration for the Healing Arts		23 MoReg 2711		
4 CSR 165-1.020	Board of Examiners for Hearing Instrument Specialists		24 MoReg 1335	24 MoReg 2238	
4 CSR 165-2.010	Board of Examiners for Hearing Instrument Specialists		24 MoReg 1840		
4 CSR 165-2.030	Board of Examiners for Hearing Instrument Specialists		24 MoReg 1840		
4 CSR 165-2.050	Board of Examiners for Hearing Instrument Specialists		24 MoReg 1840		
4 CSR 195-5.010	Job Development and Training		This Issue		
4 CSR 195-5.020	Job Development and Training		This Issue		
4 CSR 195-5.030	Job Development and Training		This Issue		
4 CSR 210-2.060	State Board of Optometry		22 MoReg 1443		
4 CSR 220-2.010	State Board of Pharmacy		24 MoReg 1841		
4 CSR 220-2.020	State Board of Pharmacy		24 MoReg 1841		
4 CSR 220-2.160	State Board of Pharmacy		24 MoReg 1842		
4 CSR 230-2.010	Board of Podiatric Medicine		24 MoReg 1649		
4 CSR 230-2.030	Board of Podiatric Medicine		24 MoReg 1337	24 MoReg 2238	
4 CSR 230-2.065	Board of Podiatric Medicine		24 MoReg 1650 24 MoReg 2202		
4 CSR 230-2.070	Board of Podiatric Medicine		24 MoReg 1337	24 MoReg 2238	
4 CSR 235-1.015	State Committee of Psychologists		24 MoReg 2132		
4 CSR 235-1.020	State Committee of Psychologists		24 MoReg 1337	24 MoReg 2238	
4 CSR 235-1.025	State Committee of Psychologists		24 MoReg 2132		
4 CSR 235-1.026	State Committee of Psychologists		24 MoReg 2133		
4 CSR 235-1.030	State Committee of Psychologists		24 MoReg 2134		
4 CSR 235-1.031	State Committee of Psychologists		24 MoReg 2134		
4 CSR 235-1.060	State Committee of Psychologists		24 MoReg 2134		
4 CSR 235-1.063	State Committee of Psychologists		24 MoReg 2135		
4 CSR 235-2.020	State Committee of Psychologists		24 MoReg 2135		
4 CSR 235-2.040	State Committee of Psychologists		24 MoReg 2135		
4 CSR 235-2.050	State Committee of Psychologists		24 MoReg 2137		
4 CSR 235-2.060	State Committee of Psychologists		24 MoReg 2138		
4 CSR 235-2.065	State Committee of Psychologists		24 MoReg 2139		
4 CSR 235-2.070	State Committee of Psychologists		24 MoReg 2140		
4 CSR 235-3.020	State Committee of Psychologists		24 MoReg 2140		
4 CSR 235-4.030	State Committee of Psychologists		24 MoReg 2141		
4 CSR 240-2.010	Public Service Commission		This IssueR This Issue		
4 CSR 240-2.015	Public Service Commission		This Issue		
4 CSR 240-2.020	Public Service Commission		24 MoReg 2142		
4 CSR 240-2.030	Public Service Commission		24 MoReg 2142		
4 CSR 240-2.040	Public Service Commission		This IssueR This Issue		
4 CSR 240-2.050	Public Service Commission		This IssueR This Issue		
4 CSR 240-2.060	Public Service Commission		This IssueR This Issue		
4 CSR 240-2.065	Public Service Commission		This IssueR This Issue		
4 CSR 240-2.070	Public Service Commission		This IssueR This Issue		
4 CSR 240-2.075	Public Service Commission		This IssueR This Issue		
4 CSR 240-2.080	Public Service Commission		This IssueR This Issue		
4 CSR 240-2.085	Public Service Commission		This Issue		

Rule Number	Agency	Emergency	Proposed	Order	In Addition
4 CSR 240-2.090	Public Service Commission		This IssueR		
			This Issue		
4 CSR 240-2.100	Public Service Commission		This IssueR		
			This Issue		
4 CSR 240-2.110	Public Service Commission		This IssueR		
			This Issue		
4 CSR 240-2.115	Public Service Commission		This IssueR		
			This Issue		
4 CSR 240-2.116	Public Service Commission		This IssueR		
			This Issue		
4 CSR 240-2.120	Public Service Commission		This IssueR		
			This Issue		
4 CSR 240-2.125	Public Service Commission		This IssueR		
			This Issue		
4 CSR 240-2.130	Public Service Commission		This IssueR		
			This Issue		
4 CSR 240-2.140	Public Service Commission		This IssueR		
			This Issue		
4 CSR 240-2.150	Public Service Commission		This IssueR		
			This Issue		
4 CSR 240-2.160	Public Service Commission		This IssueR		
			This Issue		
4 CSR 240-2.170	Public Service Commission		This IssueR		
4 CSR 240-2.180	Public Service Commission		This IssueR		
			This Issue		
4 CSR 240-2.200	Public Service Commission		This IssueR		
			This Issue		
4 CSR 240-18.010	Public Service Commission		This Issue		
4 CSR 240-20.015	Public Service Commission		24 MoReg 1340		
4 CSR 240-20.017	Public Service Commission		24 MoReg 281	24 MoReg 1680	
4 CSR 240-32.010	Public Service Commission		24 MoReg 482R	24 MoReg 1952R	
			24 MoReg 482	24 MoReg 1952	
4 CSR 240-32.020	Public Service Commission		24 MoReg 483R	24 MoReg 1952R	
			24 MoReg 483	24 MoReg 1952	
4 CSR 240-32.030	Public Service Commission		24 MoReg 485R	24 MoReg 1953R	
			24 MoReg 485	24 MoReg 1953	
4 CSR 240-32.040	Public Service Commission		24 MoReg 488R	24 MoReg 1957R	
			24 MoReg 488	24 MoReg 1958	
4 CSR 240-32.050	Public Service Commission		24 MoReg 489R	24 MoReg 1958R	
			24 MoReg 489	24 MoReg 1958	
4 CSR 240-32.060	Public Service Commission		24 MoReg 490R	24 MoReg 1960R	
			24 MoReg 490	24 MoReg 1960	
4 CSR 240-32.070	Public Service Commission		24 MoReg 494R	24 MoReg 1962R	
			24 MoReg 494	24 MoReg 1962	
4 CSR 240-32.080	Public Service Commission		24 MoReg 497R	24 MoReg 1963R	
			24 MoReg 497	24 MoReg 1963	
4 CSR 240-32.090	Public Service Commission		24 MoReg 500R	24 MoReg 1966R	
			24 MoReg 500	24 MoReg 1966	
4 CSR 240-32.100	Public Service Commission		24 MoReg 500R	24 MoReg 1966R	
			24 MoReg 501	24 MoReg 1967	
4 CSR 240-32.110	Public Service Commission		This Issue		
4 CSR 240-32.120	Public Service Commission		This Issue		
4 CSR 240-33.010	Public Service Commission		This IssueR		
			This Issue		
4 CSR 240-33.020	Public Service Commission		This IssueR		
			This Issue		
4 CSR 240-33.040	Public Service Commission		This IssueR		
			This Issue		
4 CSR 240-33.050	Public Service Commission		This IssueR		
			This Issue		
4 CSR 240-33.060	Public Service Commission		This IssueR		
			This Issue		
4 CSR 240-33.070	Public Service Commission		This IssueR		
			This Issue		
4 CSR 240-33.080	Public Service Commission		This IssueR		
			This Issue		
4 CSR 240-33.090	Public Service Commission		This IssueR		
			This Issue		
4 CSR 240-33.100	Public Service Commission		This IssueR		
			This Issue		
4 CSR 240-33.110	Public Service Commission		This IssueR		
			This Issue		
4 CSR 240-33.120	Public Service Commission		This Issue		
4 CSR 240-33.130	Public Service Commission		This Issue		
4 CSR 240-33.140	Public Service Commission		This Issue		
4 CSR 240-33.150	Public Service Commission	23 MoReg 2911			
		24 MoReg 1719	24 MoReg 1842		24 MoReg 1759
4 CSR 240-34.010	Public Service Commission		24 MoReg 758	24 MoReg 2059	
4 CSR 240-34.020	Public Service Commission		24 MoReg 758	24 MoReg 2059	
4 CSR 240-34.030	Public Service Commission		24 MoReg 759	24 MoReg 2059	
4 CSR 240-34.040	Public Service Commission		24 MoReg 760	24 MoReg 2060	
4 CSR 240-34.050	Public Service Commission		24 MoReg 761	24 MoReg 2060	
4 CSR 240-34.060	Public Service Commission		24 MoReg 764	24 MoReg 2061	

Rule Number	Agency	Emergency	Proposed	Order	In Addition
4 CSR 240-34.070	Public Service Commission		24 MoReg 764	24 MoReg 2061	
4 CSR 240-34.080	Public Service Commission		24 MoReg 765	24 MoReg 2061	
4 CSR 240-34.090	Public Service Commission		24 MoReg 765	24 MoReg 2061	
4 CSR 240-40.015	Public Service Commission		24 MoReg 1346		
4 CSR 240-40.016	Public Service Commission		24 MoReg 1352		
4 CSR 240-45.010	Public Service Commission	23 MoReg 1923	24 MoReg 1030	24 MoReg 2062	
4 CSR 240-80.015	Public Service Commission		24 MoReg 1359		
4 CSR 245-4.020	Real Estate Appraisers		24 MoReg 1846		
4 CSR 245-4.050	Real Estate Appraisers		24 MoReg 1846		
4 CSR 245-5.010	Real Estate Appraisers		24 MoReg 1847		
4 CSR 245-5.020	Real Estate Appraisers		24 MoReg 1848		
4 CSR 245-8.010	Real Estate Appraisers		24 MoReg 1848		
4 CSR 245-8.040	Real Estate Appraisers		24 MoReg 1849		
4 CSR 263-3.140	Licensed Clinical Social Workers		24 MoReg 2143		
4 CSR 265-10.025	Division of Motor Carrier and Railroad Safety		24 MoReg 2203		
	DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION				
5 CSR 30-340.010	Division of School Services		24 MoReg 1036R 24 MoReg 1036	24 MoReg 2062R 24 MoReg 2062	
5 CSR 50-270.050	Division of Instruction		24 MoReg 877		
5 CSR 50-321.010	Division of Instruction		24 MoReg 1365	This Issue	
5 CSR 50-321.020	Division of Instruction		24 MoReg 1039	24 MoReg 2064	
5 CSR 50-321.100	Division of Instruction		24 MoReg 1041R	24 MoReg 2064R	
5 CSR 50-321.200	Division of Instruction		24 MoReg 1041R	24 MoReg 2064R	
5 CSR 50-321.300	Division of Instruction		24 MoReg 1041R	24 MoReg 2064R	
5 CSR 50-321.400	Division of Instruction		24 MoReg 1041R	24 MoReg 2065R	
5 CSR 50-860.100	Division of Instruction		24 MoReg 1042R	24 MoReg 2065R	
5 CSR 60-95.010	Vocational and Adult Education		24 MoReg 1042	24 MoReg 2065	
5 CSR 60-95.020	Vocational and Adult Education		24 MoReg 1043	24 MoReg 2065	
5 CSR 60-95.030	Vocational and Adult Education		24 MoReg 1046	24 MoReg 2066	
5 CSR 60-95.040	Vocational and Adult Education		24 MoReg 1049	24 MoReg 2066	
5 CSR 80-800.040	Urban and Teacher Education		24 MoReg 1049R	24 MoReg 2066	
5 CSR 80-800.210	Urban and Teacher Education	24 MoReg 941	24 MoReg 950	24 MoReg 2067	
5 CSR 80-800.290	Urban and Teacher Education	24 MoReg 2123	24 MoReg 2143		
5 CSR 80-800.300	Urban and Teacher Education	24 MoReg 942	24 MoReg 954	24 MoReg 2068	
5 CSR 80-800.310	Urban and Teacher Education	24 MoReg 943	24 MoReg 957	24 MoReg 2068	
	DEPARTMENT OF HIGHER EDUCATION				
6 CSR 10-2.100	Commissioner of Higher Education		24 MoReg 1650		
	DEPARTMENT OF TRANSPORTATION				
7 CSR 10-2.010	Highways and Transportation Commission		24 MoReg 1367R 24 MoReg 1367		
7 CSR 10-6.010	Highways and Transportation Commission		24 MoReg 765 This Issue		
7 CSR 10-6.015	Highways and Transportation Commission		24 MoReg 766 This Issue		
7 CSR 10-6.040	Highways and Transportation Commission		24 MoReg 767 This Issue		
7 CSR 10-6.050	Highways and Transportation Commission		24 MoReg 768 This Issue		
7 CSR 10-6.060	Highways and Transportation Commission		24 MoReg 769 This Issue		
7 CSR 10-6.070	Highways and Transportation Commission		24 MoReg 770 This Issue		
7 CSR 10-6.085	Highways and Transportation Commission		24 MoReg 773 This Issue		
7 CSR 10-19.020	Highways and Transportation Commission		22 MoReg 1226		
7 CSR 10-19.030	Highways and Transportation Commission		22 MoReg 1229		
7 CSR 10-22.010	Highways and Transportation Commission		24 MoReg 774	24 MoReg 2068	
7 CSR 10-22.020	Highways and Transportation Commission		24 MoReg 774	24 MoReg 2068	
7 CSR 10-22.030	Highways and Transportation Commission		24 MoReg 776	24 MoReg 2069	
7 CSR 10-22.040	Highways and Transportation Commission		24 MoReg 776	24 MoReg 2069	
7 CSR 10-22.050	Highways and Transportation Commission		24 MoReg 777	24 MoReg 2070	
7 CSR 10-22.060	Highways and Transportation Commission		24 MoReg 778	24 MoReg 2070	
	DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS				
8 CSR 40-2.010	State Board of Mediation		24 MoReg 1507	This Issue	
8 CSR 40-2.020	State Board of Mediation		24 MoReg 1508	This Issue	
8 CSR 40-2.030	State Board of Mediation		24 MoReg 1508	This Issue	
8 CSR 40-2.040	State Board of Mediation		24 MoReg 1509	This Issue	
8 CSR 40-2.050	State Board of Mediation		24 MoReg 1509	This Issue	
8 CSR 40-2.055	State Board of Mediation		24 MoReg 1509	This Issue	
8 CSR 40-2.070	State Board of Mediation		24 MoReg 1510	This Issue	
8 CSR 40-2.100	State Board of Mediation		24 MoReg 1510	This Issue	
8 CSR 40-2.110	State Board of Mediation		24 MoReg 1510	This Issue	
8 CSR 40-2.120	State Board of Mediation		24 MoReg 1511	This Issue	
8 CSR 40-2.130	State Board of Mediation		24 MoReg 1511	This Issue	
8 CSR 40-2.150	State Board of Mediation		24 MoReg 1511	This Issue	

Rule Number	Agency	Emergency	Proposed	Order	In Addition
8 CSR 40-2.160	State Board of Mediation		24 MoReg 1512	This Issue	
8 CSR 40-2.170	State Board of Mediation		24 MoReg 1512	This Issue	
8 CSR 40-2.180	State Board of Mediation		24 MoReg 1513	This Issue	
8 CSR 50-6.010	Workers' Compensation		24 MoReg 1049	24 MoReg 2161	
	DEPARTMENT OF MENTAL HEALTH				
9 CSR 25-4.040	Fiscal Management		This Issue		
9 CSR 30-4.030	Certification Standards	24 MoReg 2191	24 MoReg 2215		
9 CSR 30-4.034	Certification Standards	24 MoReg 2193	24 MoReg 2216		
9 CSR 30-4.035	Certification Standards	24 MoReg 2194	24 MoReg 2217		
9 CSR 30-4.039	Certification Standards	24 MoReg 2195	24 MoReg 2219		
9 CSR 30-4.042	Certification Standards	24 MoReg 2197	24 MoReg 2220		
9 CSR 30-4.043	Certification Standards	24 MoReg 2199	24 MoReg 2222		
9 CSR 45-5.040	Mental Retardation and Developmental Disabilities		This Issue		
	DEPARTMENT OF NATURAL RESOURCES				
10 CSR					24 MoReg 1693
10 CSR 10-2.010	Air Conservation Commission				24 MoReg 420
10 CSR 10-3.050	Air Conservation Commission	24 MoReg 1025	24 MoReg 780	24 MoReg 1967	
10 CSR 10-5.070	Air Conservation Commission		24 MoReg 2224		
10 CSR 10-5.295	Air Conservation Commission		24 MoReg 2001		
10 CSR 10-5.380	Air Conservation Commission		24 MoReg 1513		
10 CSR 10-5.446	Air Conservation Commission		24 MoReg 19		
10 CSR 10-5.500	Air Conservation Commission		24 MoReg 2007		
10 CSR 10-5.510	Air Conservation Commission		24 MoReg 2012		
10 CSR 10-5.520	Air Conservation Commission		24 MoReg 2020		
10 CSR 10-5.530	Air Conservation Commission		24 MoReg 2025		
10 CSR 10-5.540	Air Conservation Commission		24 MoReg 2034		
10 CSR 10-5.550	Air Conservation Commission		24 MoReg 2041		
10 CSR 10-6.060	Air Conservation Commission		24 MoReg 1208	This Issue	
10 CSR 10-6.070	Air Conservation Commission		24 MoReg 957	24 MoReg 2239	
			24 MoReg 2226		
10 CSR 10-6.075	Air Conservation Commission		24 MoReg 958	24 MoReg 2240	
			24 MoReg 2226		
10 CSR 10-6.080	Air Conservation Commission		24 MoReg 959	24 MoReg 2240	
			24 MoReg 2230		
10 CSR 10-6.110	Air Conservation Commission		24 MoReg 1520		
10 CSR 10-6.170	Air Conservation Commission		22 MoReg 2129		
10 CSR 10-6.220	Air Conservation Commission		24 MoReg 1054	This Issue	
10 CSR 10-6.230	Air Conservation Commission		24 MoReg 1215R	This IssueR	
			24 MoReg 1215	This Issue	
10 CSR 20-3.010	Clean Water Commission		24 MoReg 1225R		
			24 MoReg 1225		
10 CSR 20-4.023	Clean Water Commission		24 MoReg 1849		
10 CSR 20-4.030	Clean Water Commission		24 MoReg 1849		
10 CSR 20-4.041	Clean Water Commission		24 MoReg 1850		
10 CSR 20-4.043	Clean Water Commission		24 MoReg 1852		
10 CSR 20-4.061	Clean Water Commission		24 MoReg 1724		
10 CSR 20-7.015	Clean Water Commission		24 MoReg 879	This Issue	
10 CSR 20-10.012	Clean Water Commission		24 MoReg 1056		
10 CSR 20-10.022	Clean Water Commission		24 MoReg 1056		
10 CSR 20-10.068	Clean Water Commission		24 MoReg 1057		
10 CSR 20-10.071	Clean Water Commission		24 MoReg 1058		
10 CSR 20-11.092	Clean Water Commission		24 MoReg 1058		
10 CSR 20-12.010	Clean Water Commission		24 MoReg 1058R		
10 CSR 20-12.020	Clean Water Commission		24 MoReg 1059R		
10 CSR 20-12.025	Clean Water Commission		24 MoReg 1059R		
10 CSR 20-12.030	Clean Water Commission		24 MoReg 1059R		
10 CSR 20-12.040	Clean Water Commission		24 MoReg 1060R		
10 CSR 20-12.045	Clean Water Commission		24 MoReg 1060R		
10 CSR 20-12.050	Clean Water Commission		24 MoReg 1061R		
10 CSR 20-12.060	Clean Water Commission		24 MoReg 1061R		
10 CSR 20-12.061	Clean Water Commission		24 MoReg 1061R		
10 CSR 20-12.062	Clean Water Commission		24 MoReg 1062R		
10 CSR 20-12.070	Clean Water Commission		24 MoReg 1062R		
10 CSR 20-12.080	Clean Water Commission		24 MoReg 1062R		
10 CSR 20-13.080	Clean Water Commission		24 MoReg 1239R		
			24 MoReg 1239		
10 CSR 25-12.010	Hazardous Waste Management		24 MoReg 1383		
10 CSR 25-14.010	Hazardous Waste Management		24 MoReg 1248R		
			24 MoReg 1248		
10 CSR 45-1.010	Metallic Minerals		24 MoReg 2049		
10 CSR 45-2.010	Metallic Minerals		24 MoReg 2049		
10 CSR 45-3.010	Metallic Minerals		24 MoReg 1258R		
			24 MoReg 1258		
10 CSR 45-6.010	Metallic Minerals		24 MoReg 2049		
10 CSR 45-6.020	Metallic Minerals		24 MoReg 2049		
10 CSR 45-6.030	Metallic Minerals		24 MoReg 2050		
10 CSR 60-3.010	Public Drinking Water Program		24 MoReg 1852		
10 CSR 60-3.020	Public Drinking Water Program		24 MoReg 1854		
10 CSR 60-3.030	Public Drinking Water Program		24 MoReg 1863		

Rule Number	Agency	Emergency	Proposed	Order	In Addition
10 CSR 60-5.010	Public Drinking Water Program		24 MoReg 1870		
10 CSR 60-6.010	Public Drinking Water Program		24 MoReg 1878		
10 CSR 60-6.020	Public Drinking Water Program		24 MoReg 1880		
10 CSR 60-6.030	Public Drinking Water Program		24 MoReg 1886		
10 CSR 60-6.070	Public Drinking Water Program		24 MoReg 1887		
10 CSR 60-8.030	Public Drinking Water Program		24 MoReg 1899		
10 CSR 70-5.020	Soil and Water Districts Commission	24 MoReg 1473	24 MoReg 960	24 MoReg 2162	
10 CSR 70-5.060	Soil and Water Districts Commission				23 MoReg 2267S
10 CSR 80-2.040	Solid Waste Management		24 MoReg 1267R 24 MoReg 1267		
10 CSR 100-1.010	Petroleum Storage Tank Insurance Fund		24 MoReg 1063	This Issue	
10 CSR 100-2.010	Petroleum Storage Tank Insurance Fund		24 MoReg 1065	This Issue	
10 CSR 100-3.010	Petroleum Storage Tank Insurance Fund		24 MoReg 1066	This Issue	
10 CSR 100-4.010	Petroleum Storage Tank Insurance Fund		24 MoReg 1069	This Issue	
10 CSR 100-4.020	Petroleum Storage Tank Insurance Fund		24 MoReg 1075	This Issue	
10 CSR 100-5.010	Petroleum Storage Tank Insurance Fund		24 MoReg 1081	This Issue	
10 CSR 100-5.020	Petroleum Storage Tank Insurance Fund		24 MoReg 1093	This Issue	
10 CSR 100-5.030	Petroleum Storage Tank Insurance Fund		24 MoReg 1096	This Issue	
10 CSR 140-2	Division of Energy				24 MoReg 2243
	DEPARTMENT OF PUBLIC SAFETY				
11 CSR 40-2.020	Division of Fire Safety		24 MoReg 960	24 MoReg 1968	24 MoReg 2087
11 CSR 40-4.010	Division of Fire Safety		24 MoReg 503	24 MoReg 1149	
11 CSR 40-6.010	Division of Fire Safety		24 MoReg 886	24 MoReg 1968	
11 CSR 40-6.015	Division of Fire Safety		24 MoReg 886	24 MoReg 1968	
11 CSR 40-6.020	Division of Fire Safety		24 MoReg 886	24 MoReg 1968	
11 CSR 40-6.025	Division of Fire Safety		24 MoReg 887	24 MoReg 1968	
11 CSR 40-6.030	Division of Fire Safety		24 MoReg 887	24 MoReg 1968	
11 CSR 40-6.035	Division of Fire Safety		24 MoReg 887	24 MoReg 1969	
11 CSR 40-6.040	Division of Fire Safety		24 MoReg 887	24 MoReg 1969	
11 CSR 40-6.045	Division of Fire Safety		24 MoReg 888	24 MoReg 1969	
11 CSR 40-6.050	Division of Fire Safety		24 MoReg 888	24 MoReg 1969	
11 CSR 40-6.055	Division of Fire Safety		24 MoReg 888	24 MoReg 1969	
11 CSR 40-6.060	Division of Fire Safety		24 MoReg 892	24 MoReg 1969	
11 CSR 40-6.065	Division of Fire Safety		24 MoReg 892	24 MoReg 1969	
11 CSR 40-6.070	Division of Fire Safety		24 MoReg 892	24 MoReg 1970	
11 CSR 40-6.075	Division of Fire Safety		24 MoReg 893	24 MoReg 1970	
11 CSR 40-6.080	Division of Fire Safety		24 MoReg 893	24 MoReg 1970	
11 CSR 40-6.085	Division of Fire Safety		24 MoReg 893	24 MoReg 1970	
11 CSR 40-6.090	Division of Fire Safety		24 MoReg 894	24 MoReg 1970	
11 CSR 40-6.095	Division of Fire Safety		24 MoReg 894	24 MoReg 1971	
11 CSR 40-6.100	Division of Fire Safety		24 MoReg 894	24 MoReg 1971	
11 CSR 45-1.090	Missouri Gaming Commission		24 MoReg 1652		
11 CSR 45-5.180	Missouri Gaming Commission		24 MoReg 1534		
11 CSR 45-7.050	Missouri Gaming Commission		24 MoReg 895	24 MoReg 2162	
11 CSR 45-9.030	Missouri Gaming Commission		24 MoReg 1652		
11 CSR 45-13.050	Missouri Gaming Commission		24 MoReg 897	24 MoReg 2162	
11 CSR 45-13.055	Missouri Gaming Commission	24 MoReg 2124	24 MoReg 2144		
11 CSR 45-17.020	Missouri Gaming Commission		24 MoReg 1098	This Issue	
11 CSR 45-17.040	Missouri Gaming Commission		24 MoReg 1100	This Issue	
11 CSR 45-30.370	Missouri Gaming Commission		24 MoReg 1534		
11 CSR 45-30.525	Missouri Gaming Commission		24 MoReg 1534		
11 CSR 45-30.580	Missouri Gaming Commission		24 MoReg 780	24 MoReg 2162	
11 CSR 45-30.585	Missouri Gaming Commission		24 MoReg 784	24 MoReg 2163	
11 CSR 45-30.590	Missouri Gaming Commission		24 MoReg 784	24 MoReg 2164	
11 CSR 45-30.595	Missouri Gaming Commission		24 MoReg 784	24 MoReg 2164	
11 CSR 45-30.600	Missouri Gaming Commission		24 MoReg 1535		
11 CSR 50-2.160	Missouri State Highway Patrol		24 MoReg 965	24 MoReg 2070	
11 CSR 50-2.200	Missouri State Highway Patrol		24 MoReg 965	24 MoReg 2070	
11 CSR 50-2.320	Missouri State Highway Patrol		24 MoReg 965	24 MoReg 2070	
11 CSR 70-2.190	Division of Liquor Control		This Issue		
11 CSR 75-2.010	Peace Officer Standards and Training		24 MoReg 1731		
11 CSR 75-10.070	Peace Officer Standards and Training		24 MoReg 1915		
11 CSR 75-10.100	Peace Officer Standards and Training		24 MoReg 966	24 MoReg 1971	
11 CSR 75-12.010	Peace Officer Standards and Training		24 MoReg 1733		
11 CSR 75-12.020	Peace Officer Standards and Training		24 MoReg 1733		
11 CSR 75-12.030	Peace Officer Standards and Training		24 MoReg 1734		
	DEPARTMENT OF REVENUE				
12 CSR	Construction Transient Employers				24 MoReg 2087
12 CSR 10-3.003	Director of Revenue		24 MoReg 2051R		
12 CSR 10-3.056	Director of Revenue		24 MoReg 2051R		
12 CSR 10-3.106	Director of Revenue		24 MoReg 2051R		
12 CSR 10-3.108	Director of Revenue		24 MoReg 2051R		
12 CSR 10-3.316	Director of Revenue		24 MoReg 2052R		
12 CSR 10-3.318	Director of Revenue		24 MoReg 2052R		
12 CSR 10-3.320	Director of Revenue		24 MoReg 2052R		
12 CSR 10-3.324	Director of Revenue		24 MoReg 2052R		
12 CSR 10-3.326	Director of Revenue		24 MoReg 2053R		
12 CSR 10-3.327	Director of Revenue		24 MoReg 2053R		
12 CSR 10-3.848	Director of Revenue		24 MoReg 2053R		

Rule Number	Agency	Emergency	Proposed	Order	In Addition
12 CSR 10-4.295	Director of Revenue		24 MoReg 2053R		
12 CSR 10-23.265	Director of Revenue		24 MoReg 1915		
12 CSR 10-23.444	Director of Revenue		24 MoReg 967	24 MoReg 1971	
12 CSR 10-23.446	Director of Revenue	This Issue	This Issue		
12 CSR 10-24.430	Director of Revenue		This Issue		
12 CSR 10-24.440	Director of Revenue		24 MoReg 1100	24 MoReg 2071	
12 CSR 10-42.030	Director of Revenue		24 MoReg 1735R		
			24 MoReg 1735		
12 CSR 10-43.020	Director of Revenue		24 MoReg 2230		
12 CSR 10-43.030	Director of Revenue		24 MoReg 2230		
12 CSR 10-111.010	Director of Revenue		This Issue		
12 CSR 30-3.065	State Tax Commission		24 MoReg 1103	24 MoReg 2164	
12 CSR 30-3.085	State Tax Commission		24 MoReg 2054		
12 CSR 40-20.040	State Lottery		24 MoReg 1736		
12 CSR 40-80.010	State Lottery		24 MoReg 1736		
12 CSR 40-80.020	State Lottery		24 MoReg 1737		
12 CSR 40-80.030	State Lottery		24 MoReg 1737		
12 CSR 40-80.050	State Lottery		24 MoReg 1738		
12 CSR 40-80.090	State Lottery		24 MoReg 1738		
12 CSR 40-80.100	State Lottery		24 MoReg 1738		
12 CSR 40-90.010	State Lottery		24 MoReg 1739R		
12 CSR 40-90.020	State Lottery		24 MoReg 1739R		
12 CSR 40-90.030	State Lottery		24 MoReg 1739R		
12 CSR 40-90.040	State Lottery		24 MoReg 1739R		
12 CSR 40-90.050	State Lottery		24 MoReg 1740R		
12 CSR 40-90.060	State Lottery		24 MoReg 1740R		
12 CSR 40-90.070	State Lottery		24 MoReg 1740R		
12 CSR 40-90.080	State Lottery		24 MoReg 1740R		
12 CSR 40-90.090	State Lottery		24 MoReg 1741R		
12 CSR 40-90.100	State Lottery		24 MoReg 1741R		
12 CSR 40-90.110	State Lottery		24 MoReg 1741		
12 CSR 40-90.120	State Lottery		24 MoReg 1741R		
	DEPARTMENT OF SOCIAL SERVICES				
13 CSR 15-10.060	Division of Aging	24 MoReg 869	24 MoReg 897	24 MoReg 2071	
13 CSR 15-14.012	Division of Aging	24 MoReg 1473	24 MoReg 2054		
13 CSR 15-14.022	Division of Aging	24 MoReg 1474	24 MoReg 2054		
13 CSR 40-2.300	Division of Family Services	23 MoReg 2133T			
13 CSR 40-2.305	Division of Family Services	23 MoReg 2133T			
13 CSR 40-2.310	Division of Family Services	23 MoReg 2133T			
13 CSR 40-2.315	Division of Family Services	23 MoReg 2133T			
13 CSR 40-2.320	Division of Family Services	23 MoReg 2134T			
13 CSR 40-2.325	Division of Family Services	23 MoReg 2134T			
13 CSR 40-2.330	Division of Family Services	23 MoReg 2134T			
13 CSR 40-2.335	Division of Family Services	23 MoReg 2134T			
13 CSR 40-2.340	Division of Family Services	23 MoReg 2134T			
13 CSR 40-2.345	Division of Family Services	23 MoReg 2134T			
13 CSR 40-2.350	Division of Family Services	23 MoReg 2134T			
13 CSR 40-2.355	Division of Family Services	23 MoReg 2135T			
13 CSR 40-2.360	Division of Family Services	23 MoReg 2135T			
13 CSR 40-2.365	Division of Family Services	23 MoReg 2135T			
13 CSR 40-2.370	Division of Family Services	23 MoReg 2135T			
13 CSR 40-19.020	Division of Family Services	This Issue	This Issue		
13 CSR 40-80.010	Division of Family Services		This Issue		
13 CSR 70-3.020	Medical Services		23 MoReg 1191		
			24 MoReg 1742		
13 CSR 70-3.030	Medical Services		24 MoReg 1743		
13 CSR 70-3.130	Medical Services		24 MoReg 1747		
13 CSR 70-4.080	Medical Services		This Issue		
13 CSR 70-4.080(5)	Medical Services		This Issue		
13 CSR 70-4.090	Medical Services		This Issue		
13 CSR 70-10.015(13)	Medical Services		This Issue		
13 CSR 70-10.030	Medical Services	24 MoReg 711	24 MoReg 200		
			24 MoReg 1669		
13 CSR 70-10.040	Medical Services		24 MoReg 1672		
13 CSR 70-10.050	Medical Services		24 MoReg 1673		
13 CSR 70-10.080	Medical Services	This Issue	This Issue		
13 CSR 70-10.110	Medical Services	This Issue	This Issue		
13 CSR 70-15.010	Medical Services				24 MoReg 1972
			24 MoReg 1535		
		24 MoReg 1720	24 MoReg 1538		
			24 MoReg 1916		
			This Issue		
13 CSR 70-15.040	Medical Services		24 MoReg 1540		
			24 MoReg 1749		
13 CSR 70-15.110	Medical Services		This Issue		
13 CSR 70-20.031	Medical Services		24 MoReg 202		
			24 MoReg 1675		
13 CSR 70-20.032	Medical Services		24 MoReg 202		
13 CSR 70-94.020	Medical Services		24 MoReg 1543		

Rule Number	Agency	Emergency	Proposed	Order	In Addition
	ELECTED OFFICIALS				
15 CSR 30-4.010	Secretary of State		This Issue		
15 CSR 30-15.010	Secretary of State		This Issue		
15 CSR 30-45.030	Secretary of State		24 MoReg 2147R		
15 CSR 30-45.030	Secretary of State		24 MoReg 2147		
15 CSR 50-3.005	Treasurer		24 MoReg 1277	24 MoReg 2072	
15 CSR 50-3.010	Treasurer		24 MoReg 1280	24 MoReg 2072	
15 CSR 50-3.030	Treasurer		24 MoReg 1280	24 MoReg 2073	
15 CSR 50-3.050	Treasurer		24 MoReg 1286	24 MoReg 2073	
15 CSR 50-3.070	Treasurer		24 MoReg 1286	24 MoReg 2073	
15 CSR 50-3.075	Treasurer		24 MoReg 1291	24 MoReg 2073	
15 CSR 50-3.080	Treasurer		24 MoReg 1291	24 MoReg 2073	
15 CSR 50-3.090	Treasurer		24 MoReg 1292	24 MoReg 2073	
15 CSR 50-3.100	Treasurer		24 MoReg 1295	24 MoReg 2074	
15 CSR 50-4.010	Treasurer		This Issue		
15 CSR 50-4.020	Treasurer	This Issue	This Issue		
15 CSR 60-11.010	Attorney General		24 MoReg 1103		
15 CSR 60-11.020	Attorney General		24 MoReg 1104		
	RETIREMENT SYSTEMS				
16 CSR 10-3.010	Public School Retirement System		24 MoReg 1750		
16 CSR 10-4.010	Public School Retirement System		24 MoReg 2231		
16 CSR 10-5.010	Public School Retirement System		24 MoReg 2232		
16 CSR 10-5.020	Public School Retirement System		24 MoReg 2233		
16 CSR 10-5.030	Public School Retirement System		24 MoReg 2233		
16 CSR 10-5.055	Public School Retirement System		24 MoReg 2234		
16 CSR 10-6.040	Public School Retirement System		24 MoReg 2235		
16 CSR 10-6.020	Public School Retirement System		24 MoReg 1751		
16 CSR 10-6.060	Public School Retirement System		24 MoReg 2235		
16 CSR 10-6.090	Public School Retirement System		24 MoReg 2236		
16 CSR 10-6.100	Public School Retirement System		24 MoReg 2236		
16 CSR 50-2.020	The County Employees' Retirement Fund		24 MoReg 1675	This Issue	
16 CSR 50-2.050	The County Employees' Retirement Fund		24 MoReg 1295	24 MoReg 2074	
	DEPARTMENT OF HEALTH				
19 CSR 10-10.010	Office of Director		24 MoReg 967	24 MoReg 2074	
19 CSR 10-10.020	Office of Director		24 MoReg 967	24 MoReg 2074	
19 CSR 10-10.030	Office of Director		24 MoReg 968	24 MoReg 2074	
19 CSR 20-1.010	Health and Communicable Disease Prevention		24 MoReg 1104R	24 MoReg 2241R	
19 CSR 20-1.020	Health and Communicable Disease Prevention		24 MoReg 1104R	24 MoReg 2241R	
19 CSR 20-1.025	Health and Communicable Disease Prevention		24 MoReg 1105	24 MoReg 2241	
19 CSR 20-8.010	Health and Communicable Disease Prevention This IssueR		This IssueR		
19 CSR 20-8.020	Health and Communicable Disease Prevention This IssueR		This IssueR		
19 CSR 20-20.075	Health and Communicable Disease Prevention		24 MoReg 2055		
19 CSR 20-28.060	Health and Communicable Disease Prevention		24 MoReg 1543	This Issue	
19 CSR 30-1.002	Health Standards and Licensure		24 MoReg 572		
19 CSR 30-1.004	Health Standards and Licensure		24 MoReg 580		
19 CSR 30-1.006	Health Standards and Licensure		24 MoReg 580		
19 CSR 30-1.008	Health Standards and Licensure		24 MoReg 581		
19 CSR 30-1.010	Health Standards and Licensure		24 MoReg 582R		
19 CSR 30-1.011	Health Standards and Licensure		24 MoReg 582		
19 CSR 30-1.013	Health Standards and Licensure		24 MoReg 573		
19 CSR 30-1.015	Health Standards and Licensure		24 MoReg 588		
19 CSR 30-1.017	Health Standards and Licensure		24 MoReg 591		
19 CSR 30-1.019	Health Standards and Licensure		24 MoReg 598		
19 CSR 30-1.020	Health Standards and Licensure		24 MoReg 598R		
19 CSR 30-1.023	Health Standards and Licensure		24 MoReg 598		
19 CSR 30-1.025	Health Standards and Licensure		24 MoReg 599R		
19 CSR 30-1.026	Health Standards and Licensure		24 MoReg 599		
19 CSR 30-1.027	Health Standards and Licensure		24 MoReg 600		
19 CSR 30-1.030	Health Standards and Licensure		24 MoReg 600R		
19 CSR 30-1.031	Health Standards and Licensure		24 MoReg 601		
19 CSR 30-1.032	Health Standards and Licensure		24 MoReg 601		
19 CSR 30-1.033	Health Standards and Licensure		24 MoReg 605R		
19 CSR 30-1.034	Health Standards and Licensure		24 MoReg 605		
19 CSR 30-1.035	Health Standards and Licensure		24 MoReg 613R		
19 CSR 30-1.036	Health Standards and Licensure		24 MoReg 613R		
19 CSR 30-1.041	Health Standards and Licensure		24 MoReg 613		
19 CSR 30-1.042	Health Standards and Licensure		24 MoReg 619		
19 CSR 30-1.044	Health Standards and Licensure		24 MoReg 625		
19 CSR 30-1.046	Health Standards and Licensure		24 MoReg 628		
19 CSR 30-1.048	Health Standards and Licensure		24 MoReg 632		
19 CSR 30-1.050	Health Standards and Licensure		24 MoReg 639		
19 CSR 30-1.052	Health Standards and Licensure		24 MoReg 642		
19 CSR 30-1.060	Health Standards and Licensure		24 MoReg 645		
19 CSR 30-1.062	Health Standards and Licensure		24 MoReg 645		
19 CSR 30-1.064	Health Standards and Licensure		24 MoReg 645		
19 CSR 30-1.066	Health Standards and Licensure		24 MoReg 649		
19 CSR 30-1.068	Health Standards and Licensure		24 MoReg 654		
19 CSR 30-1.070	Health Standards and Licensure		24 MoReg 657		
19 CSR 30-1.072	Health Standards and Licensure		24 MoReg 662		

Rule Number	Agency	Emergency	Proposed	Order	In Addition
19 CSR 30-1.074	Health Standards and Licensure		24 MoReg 662		
19 CSR 30-1.076	Health Standards and Licensure		24 MoReg 662		
19 CSR 30-1.078	Health Standards and Licensure		24 MoReg 666		
19 CSR 30-40.303	Health Standards and Licensure	24 MoReg 2124R	24 MoReg 2149R		
		24 MoReg 2125	24 MoReg 2149		
19 CSR 30-61.045	Health Standards and Licensure		24 MoReg 801	24 MoReg 2074	
19 CSR 30-61.055	Health Standards and Licensure		24 MoReg 805	24 MoReg 2075	
19 CSR 30-61.085	Health Standards and Licensure		24 MoReg 808	24 MoReg 2077	
19 CSR 30-61.086	Health Standards and Licensure		24 MoReg 808	24 MoReg 2078	
19 CSR 30-61.105	Health Standards and Licensure		24 MoReg 815	24 MoReg 2079	
19 CSR 30-61.175	Health Standards and Licensure		24 MoReg 815	24 MoReg 2080	
19 CSR 30-61.210	Health Standards and Licensure		24 MoReg 815	24 MoReg 2080	
19 CSR 30-62.042	Health Standards and Licensure		24 MoReg 816	24 MoReg 2081	
19 CSR 30-62.052	Health Standards and Licensure		24 MoReg 820	24 MoReg 2082	
19 CSR 30-62.082	Health Standards and Licensure		24 MoReg 823	24 MoReg 2083	
19 CSR 30-62.087	Health Standards and Licensure		24 MoReg 823	24 MoReg 2084	
19 CSR 30-62.102	Health Standards and Licensure		24 MoReg 831	24 MoReg 2084	
19 CSR 30-62.182	Health Standards and Licensure		24 MoReg 831	24 MoReg 2086	
19 CSR 30-62.222	Health Standards and Licensure		24 MoReg 832	24 MoReg 2086	
19 CSR 30-70.110	Health Standards and Licensure	This Issue	This Issue		
19 CSR 30-70.120	Health Standards and Licensure	This Issue	This Issue		
19 CSR 30-70.130	Health Standards and Licensure	This Issue	This Issue		
19 CSR 30-70.140	Health Standards and Licensure	This Issue	This Issue		
19 CSR 30-70.150	Health Standards and Licensure	This Issue	This Issue		
19 CSR 30-70.160	Health Standards and Licensure	This Issue	This Issue		
19 CSR 30-70.170	Health Standards and Licensure	This Issue	This Issue		
19 CSR 30-70.180	Health Standards and Licensure	This Issue	This Issue		
19 CSR 30-70.190	Health Standards and Licensure	This Issue	This Issue		
19 CSR 30-70.195	Health Standards and Licensure	This Issue	This Issue		
19 CSR 30-70.200	Health Standards and Licensure	This Issue	This Issue		
19 CSR 30-70.310	Health Standards and Licensure	This Issue	This Issue		
19 CSR 30-70.320	Health Standards and Licensure	This Issue	This Issue		
19 CSR 30-70.330	Health Standards and Licensure	This Issue	This Issue		
19 CSR 30-70.340	Health Standards and Licensure	This Issue	This Issue		
19 CSR 30-70.350	Health Standards and Licensure	This Issue	This Issue		
19 CSR 30-70.360	Health Standards and Licensure	This Issue	This Issue		
19 CSR 30-70.370	Health Standards and Licensure	This Issue	This Issue		
19 CSR 30-70.380	Health Standards and Licensure	This Issue	This Issue		
19 CSR 30-70.390	Health Standards and Licensure	This Issue	This Issue		
19 CSR 30-70.400	Health Standards and Licensure	This Issue	This Issue		
19 CSR 30-70.510	Health Standards and Licensure	This Issue	This Issue		
19 CSR 30-70.520	Health Standards and Licensure	This Issue	This Issue		
19 CSR 30-70.600	Health Standards and Licensure	This Issue	This Issue		
19 CSR 30-70.610	Health Standards and Licensure	This Issue	This Issue		
19 CSR 30-70.620	Health Standards and Licensure	This Issue	This Issue		
19 CSR 30-70.630	Health Standards and Licensure	This Issue	This Issue		
19 CSR 30-70.640	Health Standards and Licensure	This Issue	This Issue		
19 CSR 40-5.050	Maternal, Child and Family Health		24 MoReg 1295R	24 MoReg 2242R	
			24 MoReg 1296	24 MoReg 2242	
19 CSR 40-13.010	Maternal, Child and Family Health		24 MoReg 515		
19 CSR 40-13.020	Maternal, Child and Family Health		24 MoReg 526		
19 CSR 40-13.030	Maternal, Child and Family Health		24 MoReg 527		
19 CSR 60-50	Missouri Health Facilities Review				24 MoReg 2243
19 CSR 60-50.400	Missouri Health Facilities Review	24 MoReg 1790R	24 MoReg 1918R		
		24 MoReg 1791	24 MoReg 1918		
19 CSR 60-50.410	Missouri Health Facilities Review	24 MoReg 1799R	24 MoReg 1926R		
		24 MoReg 1799	24 MoReg 1926		
19 CSR 60-50.420	Missouri Health Facilities Review				24 MoReg 246
		24 MoReg 1805R	24 MoReg 1932R		24 MoReg 420
		24 MoReg 1805	24 MoReg 1932		24 MoReg 914
					24 MoReg 1449
19 CSR 60-50.430	Missouri Health Facilities Review	24 MoReg 1806R	24 MoReg 1933R		
		24 MoReg 1806	24 MoReg 1933		
19 CSR 60-50.450	Missouri Health Facilities Review	24 MoReg 1818R	24 MoReg 1947R		
		24 MoReg 1818	24 MoReg 1947		
	DEPARTMENT OF INSURANCE				
20 CSR	Medical Malpractice				23 MoReg 514
					24 MoReg 682
20 CSR 10-1.020	General Administration		24 MoReg 1545	This Issue	
20 CSR 200-5.010	Financial Examination		24 MoReg 1550	This Issue	
20 CSR 200-6.100	Financial Examination		24 MoReg 1553	This Issue	
20 CSR 200-7.200	Financial Examination		24 MoReg 1555	This Issue	
20 CSR 200-8.100	Financial Examination		24 MoReg 1559	This Issue	
20 CSR 200-9.600	Financial Examination		24 MoReg 1562	This Issue	
20 CSR 200-10.500	Financial Examination		24 MoReg 1570	This Issue	
20 CSR 200-14.400	Financial Examination		24 MoReg 1572	This Issue	
20 CSR 400-1.150	Life, Annuities and Health		24 MoReg 1574	This Issue	
20 CSR 400-2.130	Life, Annuities and Health		24 MoReg 1576	This Issue	
20 CSR 500-1.100	Property and Casualty		24 MoReg 1585	This Issue	
20 CSR 500-4.100	Property and Casualty		24 MoReg 1950		

Rule Number	Agency	Emergency	Proposed	Order	In Addition
20 CSR 500-4.300	Property and Casualty		24 MoReg 1585	This Issue	
20 CSR 500-6.300	Property and Casualty		23 MoReg 1748		23 MoReg 514
20 CSR 500-7.200	Property and Casualty		23 MoReg 3071	This Issue	
			24 MoReg 1587		
20 CSR 700-1.010	Licensing		24 MoReg 1296		
20 CSR 700-1.100	Licensing		24 MoReg 1297		
20 CSR 700-1.110	Licensing		23 MoReg 3073		
			24 MoReg 1589	This Issue	
20 CSR 700-1.130	Licensing		24 MoReg 1297		
20 CSR 700-3.100	Licensing		23 MoReg 3076		
			24 MoReg 1592	This Issue	
20 CSR 700-4.100	Licensing		23 MoReg 3079		
			24 MoReg 1595	This Issue	
20 CSR 700-6.300	Licensing		23 MoReg 3082		
			24 MoReg 1598	This Issue	
20 CSR 700-7.100	Licensing		23 MoReg 3084		
			24 MoReg 1600	This Issue	
20 CSR 800-2.010	General Counsel		23 MoReg 3090		
			24 MoReg 1606	This Issue	

Emergency Rules in Effect as of October 1, 1999 — Expires

Department of Agriculture

Market Development

2 CSR 10-5.005 Price Reporting Requirements for Livestock Purchases by Packers . . . . . March 2, 2000

Missouri Agricultural and Small Business Development Authority

2 CSR 100-8.010 Description of Operation, Definitions, Applicant Requirements, Procedures for Grant Approval, Funding of Grants, and Amending the Rules for the Missouri Value-Added Grant Program . . . . . February 24, 2000

Department of Economic Development

Credit Union Commission

4 CSR 105-2.010 Rules of Procedure . . . . . January 7, 2000

4 CSR 105-3.010 Definitions . . . . . January 7, 2000

4 CSR 105-3.020 Criteria for Additional Membership Groups . . . . . January 7, 2000

4 CSR 105-3.030 Economic Advisability . . . . . January 7, 2000

Public Service Commission

4 CSR 240-33.150 Verification of Orders for Changing Telecommunications Service Provider . . . . . December 26, 1999

Department of Elementary and Secondary Education

Urban and Teacher Education

5 CSR 80-800.290 Application for Substitute Certificate of License to Teach . . . . . January 26, 2000

Department of Labor and Industrial Relations

Missouri Commission on Human Rights

8 CSR 60-3.040 Employment Practices Related to Men and Women . . . . . March 24, 2000

Department of Mental Health

Certification Standards

9 CSR 30-4.030 Certification Standards Definitions . . . . . February 17, 2000

9 CSR 30-4.034 Personnel and Staff Development . . . . . February 17, 2000

9 CSR 30-4.035 Client Records of a Community Psychiatric Rehabilitation Program . . . . . February 17, 2000

9 CSR 30-4.039 Service Provision . . . . . February 17, 2000

9 CSR 30-4.042 Admission Criteria . . . . . February 17, 2000

9 CSR 30-4.043 Treatment Provided by a Community Psychiatric Rehabilitation Program . . . . . February 17, 2000

Department of Natural Resources

Air Conservation Commission

10 CSR 10-3.050 Restriction of Emission of Particulate Matter from Industrial Processes . . . . . October 1, 1999

Public Drinking Water Program

10 CSR 60-3.010 Construction Authorization, Final Approval of Construction Owner-Supervised Program and Permit to Dispense Water . . . . . March 27, 2000

10 CSR 60-3.020 Continuing Operating Authority . . . . . March 27, 2000

10 CSR 60-3.030 Technical, Managerial, and Financial Capacity . . . . . March 27, 2000

Soil and Water Districts Commission

10 CSR 70-5.020 Application and Eligibility for Funds . . . . . November 19, 1999

Department of Public Safety

Missouri Gaming Commission

11 CSR 45-17.020 Procedure for Applying for Placement on List of Disassociated Persons . . . . . January 20, 2000

11 CSR 45-13.055 Immediate Revocation or Suspension of License—Expedited Hearing . . . . . February 24, 2000

Department of Revenue

Director of Revenue

12 CSR 10-23.446 Notice of Lien . . . . . February 23, 2000

Department of Social Services

Division of Aging

13 CSR 15-10.060 Hiring Restrictions—Good Cause Waiver . . . . . January 10, 2000

13 CSR 15-14.012	Construction Standards for New Intermediate Care and Skilled Nursing Facilities and Additions to and Major Remodeling of Intermediate Care and Skilled Nursing Facilities	February 24, 2000
13 CSR 15-14.022	Fire Safety Standards for New and Existing Intermediate Care and Skilled Nursing Facilities	February 24, 2000
Division of Family		
13 CSR 40-19.020	Low Income Home Energy Assistance Program	March 28, 2000
Division of Medical Services		
13 CSR 70-4.090	Uninsured Working Parents' Health Insurance Program	March 21, 2000
13 CSR 70-10.015	Prospective Reimbursement Plan for Nursing Facility Services	March 29, 2000
13 CSR 70-10.050	Pediatric Nursing Care Plan	March 29, 2000
13 CSR 70-10.080	Prospective Reimbursement Plan for HIV Nursing Care Services	March 29, 2000
13 CSR 70-10.110	Nursing Facility Reimbursement Allowance	March 29, 2000
13 CSR 70-15.010	Inpatient Hospital Services Reimbursement Plan; Outpatient Hospital Reimbursement Methodology	December 24, 1999
13 CSR 70-15.110	Federal Reimbursement Allowance (FRA)	October 4, 1999

Elected Officials

Treasurer

15 CSR 50-4.020	Missouri Higher Education Savings Board	March 11, 2000

Department of Health

Environmental Public Health and Communicable Disease Prevention

19 CSR 20-8.010	Accreditation of Lead Training Program	February 25, 2000
19 CSR 20-8.020	Licensing of Lead Inspectors, Lead Abatement Workers and Lead Abatement Supervisors/Contractors	February 25, 2000
Division of Health Standards and Licensure		
19 CSR 30-40.303	Medical Director Required for All: Ambulance Services and—Emergency Medical Response Agencies that Provide Advanced Life Support Services, Basic Life Support Services Utilizing Medications or Providing Assistance With Patients' Medications, or Basic Life Support Services Performing Invasive Procedures Including Invasive Airway Procedures; Dispatch Agencies Providing Prearrival Medical Instructions; and EMS Training Entities	February 3, 2000
19 CSR 30-40.303	Medical Director Required for All: Ambulance Services and Emergency Medical Response Agencies That Provide Advanced Life Support Services, Basic Life Support Services Utilizing Medications or Providing Assistance With Patients' Medications, or Basic Life Support Services Performing Invasive Procedures Including Invasive Airway Procedures; Dispatch Agencies Providing Pre-arrival Medical Instructions; and Training Entities	February 3, 2000
19 CSR 30-70.110	Definitions and Abbreviation for Lead Abatement and Assessment Licensing	February 25, 2000
19 CSR 30-70.120	General	February 25, 2000
19 CSR 30-70.130	Application Process and Requirements for the Licensure of Lead Inspectors	February 25, 2000
19 CSR 30-70.140	Application Process and Requirements for the Licensure of Risk Assessors	February 25, 2000
19 CSR 30-70.150	Application Process and Requirements for the Licensure of Lead Abatement Workers	February 25, 2000
19 CSR 30-70.160	Application Process and Requirements for the Licensure of Lead Abatement Supervisors	February 25, 2000
19 CSR 30-70.170	Application Process and Requirements for the Licensure of Project Designers	February 25, 2000
19 CSR 30-70.180	Application Process and Licensure Renewal Requirements for Lead Abatement Contractors	February 25, 2000
19 CSR 30-70.190	Renewal of Lead Occupation Licenses	February 25, 2000
19 CSR 30-70.195	Application Process and Requirements for Re-application After License Expiration	February 25, 2000
19 CSR 30-70.200	Application Process and Requirements for the Licensure of Risk Assessors Who Possessed a Valid Missouri Lead Inspector License on August 28, 1998	February 25, 2000
19 CSR 30-70.310	Definitions and Abbreviations for the Accreditation of Training Providers	February 25, 2000
19 CSR 30-70.320	Accreditation of Training Providers for Training Courses	February 25, 2000
19 CSR 30-70.330	Requirements for a Training Provider of a Lead Inspector Training Course	February 25, 2000
19 CSR 30-70.340	Requirements for a Training Provider of a Risk Assessor Training Course	February 25, 2000
19 CSR 30-70.350	Requirements for a Training Provider of a Lead Abatement Worker Training Course	February 25, 2000
19 CSR 30-70.360	Requirements for a Training Provider of a Lead Abatement Supervisor Training Course	February 25, 2000
19 CSR 30-70.370	Requirements for a Training Provider of a Project Designer Training Course	February 25, 2000
19 CSR 30-70.380	Requirements for the Accreditation of Refresher Courses	February 25, 2000
19 CSR 30-70.390	Re-accreditation of a Training Course or Refresher Course	February 25, 2000
19 CSR 30-70.400	Suspension, Revocation, and Restriction of Accredited Training Providers	February 25, 2000
19 CSR 30-70.510	Standard of Professional Conduct	February 25, 2000
19 CSR 30-70.520	Public Complaint Handling and Disposition Procedure	February 25, 2000
19 CSR 30-70.600	Definitions Pertaining to the Work Practice Standards for Conducting Lead-Bearing Substance Activities	February 25, 2000
19 CSR 30-70.610	Work Practice Standards for a Lead Inspection	February 25, 2000
19 CSR 30-70.620	Work Practice Standards for a Lead Risk Assessment	February 25, 2000
19 CSR 30-70.630	Lead Abatement Work Practice Standards	February 25, 2000
19 CSR 30-70.640	Project Notification for Industrial Lead Abatement Projects	February 25, 2000

Division of Maternal, Child and Family Health

19 CSR 40-3.010	Administration of the SIDS Program	February 24, 2000

Missouri Health Facilities Review Committee

19 CSR 60-50.400	Letter of Intent Process	January 5, 2000
19 CSR 60-50.400	Letter of Intent Process	January 5, 2000
19 CSR 60-50.410	Letter of Intent Package	January 5, 2000
19 CSR 60-50.410	Letter of Intent Package	January 5, 2000
19 CSR 60-50.420	Application Process	January 5, 2000
19 CSR 60-50.420	Application Process	January 5, 2000
19 CSR 60-50.430	Application Package	January 5, 2000
19 CSR 60-50.430	Application Package	January 5, 2000
19 CSR 60-50.450	Criteria and Standards for Long-Term Care	January 5, 2000
19 CSR 60-50.450	Criteria and Standards for Long-Term Care	January 5, 2000

The rule number and the MoReg publication date follow each entry to this index.

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